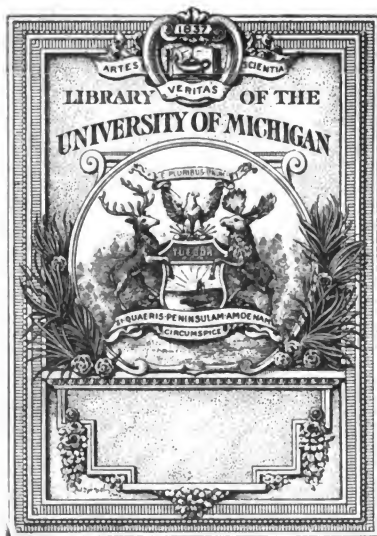




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D E B A T E S
O F T H E
House of Commons,

From the Year 1667 to the Year 1694.

COLLECTED BY THE
Hon^{ble} ANCHITELL GREY, Esq;

WHO WAS
Thirty Years Member for the Town of DERBY;
CHAIRMAN of Several COMMITTEES;

A N D
Decyphered COLEMAN'S LETTERS for the Use
of the HOUSE.

I N T E N V O L U M E S .

V O L U M E I I .

L O N D O N :

Printed for D. HENRY and R. CAVE, at St John's Gate ;
and J. EMONSON, in St John's Square.

MDCC LXIII.

DEBATES

OF THE

HOUSE OF REPRESENTATIVES

IN SENATE AND HOUSE

OF THE COMMONS

OF GREAT BRITAIN

AND IRELAND

FROM 1701 TO 1801

IN TWO VOLUMES

VOL. I

THE FIRST PART

OF THE DEBATES

IN THE HOUSE OF COMMONS

IN 1701

BY JAMES OAKES

LONDON

Printed by J. Oakes, at the Sign of the Crown, in St. Paul's Church-yard

1701

1701

DEBATES

IN THE

House of Commons,

From the Year 1667 to the Year 1694.

Tuesday, April 16, 1672.

THE House met, and was farther prorogued to *October 30*, and from thence to

Tuesday, February 4, 1672.*

When Sir *Edward Turner*, the late Speaker, having been made Lord Chief Baron of the Exchequer, (*see Vol. I. p. 44. Note.*) Sir *Job Charlton*, Serjeant at Law, was chosen Speaker in his room.

Wednesday, February 5.

[The Speaker elect having been presented to, and approved by, his Majesty, the King in his Speech, which was delivered in writing to the Speaker, acquainted the House, "That he had been forced, since their last meeting, into a most important, necessary, and expensive war, and made no doubt but they would give him suitable and effectual assistance to go through with it." He told them, "that the last supply did not answer the ends intended, the payment of their debts, and therefore recommended them again to their special care." Mentioned "his having put forth, before war was declared, a Declaration for indulgence

* It may be proper to observe, that, in the interval between the last session and this, a second war with *Holland* having been resolved on, in concert with the Court of *France* (which had remitted 700,000*l.* to the King on that account) the *Exchequer* had been shut up, the *Dutch Smyrna* fleet attacked, a grant of Liberty of Conscience, and an universal Toleration set forth, and War with the States declared.

VOL. II.

B

to

2 *Debates in Parliament in 1672.*

to Dissenters, which had been attended with good effects;" and observed "that one part of it had been subject to misconstruction, viz. that concerning the Papists, as if more liberty were granted them than to the other Recusants, when it was plain there was less, these having public places allowed them, and those being confined to their own houses." He mentioned "one jealousy more, which he called weak and frivolous, and that was, that the forces he had raised in the war were designed to controul Law and Property. Wished he had had more forces the last summer; being convinced by the want of them then, that he must raise more against next spring, and did not doubt but they would consider the charge of them in their supplies." He concluded with "assuring them, that he would preserve the true reformed Protestant Religion, and the Church established, and that no man's property or liberty should ever be invaded."

This was followed by a long speech from the Lord Chancellor *Shaftesbury*, in which he enlarged on what the King had said. But no part of his speech was more amazing than that, speaking of the war with the *Dutch*, he said, "*Delenda est Carthago.*" Yet while he made a base complying speech in favour of the Court, and of the war, he was in a secret management with another party.]

[A Bill for punishing disorders committed in Elections, was read the first time*.]

Thursday, February 6.

The House went into a Debate on the matter of issuing writs, and making elections and returns, without order or warrant from the House, by the Lord Chancellor, the Parliament not sitting†.

Sir John Birkenhead.] If you tie up the hands of the Lord Chancellor, how will you be supplied with Members when you come to sit?

* This Bill was only read to open the Session.

† The new Speaker was scarce in the Chair, before a Member, standing up, and looking about him, said, "he observed several new faces in the House, and did not remember that, before their last rising, the House had been moved for the filling so many places; so he doubted the regularity of the

sitting of those people, and moved their titles might be examined." Another Member seconding, said, "he supposed those gentlemen would have the modesty to withdraw, while their case was under debate, and not wait for the order of the House;" so this whole set of new elects, though mostly Loyalists, filed out, and came in no more upon that choice. *North's Examen*, p. 56.

Sir

Sir *John Knight*.] The King's Prerogative is not judged at all, by annulling these Writs—You are to take notice of the thing, and therefore moves that these Writs may be suspended.

Sir *Tho. Littleton*.] Though some Writs were not issued out, it was for want of notice; though it happened now, it is not possible to be so again. It is confessed, on all hands, that no Members were chosen so since the Long Parliament; there are precedents before; there are many precedents that the Chancellor did issue out Writs.

Mr Secretary *Coventry*.] Conveniency, or inconveniency, is not the question, but right; whether the Chancellor has done legally, or not—Divers precedents even to the Long Parliament—Moves that the several opinions do lay their precedents on the board; if it be with Law, we must have a Law to take away the inconveniency.

Colonel *Strangways*.] Has not had time to search precedents, but here is an usage for many years. It is strange, that, the same week of attendance, the Writs should be sent out; both Right and Crown must subsist together—We are in possession of the thing, and would have gentlemen take the same care that are against it, on one side, as well as the other; let the thing be done clearly.

Mr *Cheney*.] Mr Attorney said, "That the Chancellor had precedents," and he would have a Committee to examine those precedents.

Mr Attorney *Finch*.] Will any man think that this is an universal proposition, that either Warrant from the Speaker, or Writs from the Chancellor, is an error? Notification from the Speaker to the Chancellor is the course, if a vacancy be—If they be sent to supply the places of sick persons, or beyond the sea, you may question them—If in Prorogation, for a Member that is dead, that sat here by a questionable Election, that Writ is questionable; but sitting by unquestionable right, this Writ is not only lawful, but expedient.

There never was any age, wherein Members were
B 2 questioned,

questioned for default of a Lord Steward [to give the oath of Allegiance and Supremacy, &c.] Persons elected in Queen *Eliz.* by the Chancellor's Writ, came not in, but when sworn by the Lord Steward *Lincoln*, who was absent, admitted. The 7th of King *James* is an authority both ways. No less than thirty-four now dead, and as many chosen during vacation of Parliament. The Writs were issued out by Lord *Ellesmere*; some were cases of Barons removed, and persons dead, &c. and then voted where Members are dead in Prorogation, and no contrary usage after, and Writs then went out. But six Parliaments since King *James's* time, and will the precedents of six Parliaments question those of sixty Parliaments? No precedents in 1618 to the contrary. There was a Writ in Prorogation for *Hertford*, but not executed. When the Parliament met, Sir *Richard Wyxne* kept it in his pocket. A *Supersedeas* may be before, but not after, the execution of the Writ; if not executed, no injury done to the Borough, or Member. Though there was then a *Supersedeas* (*Hertford*,) yet here we have persons chosen in the room of such whose Elections were never questioned. It would be wonderfully hard now to declare a new Privilege that was practised before. These Privileges, thus introduced, are particular respects to this great Assembly, that signification might come to the Speaker. It is a necessity to the public that things might not be carried in a thin House—A Peer may knock at the door, and call for his Writ to the Chancellor—In Privilege-time we ought not to be at the Chancellor's pleasure, to send, or not send, out Writs. If use be made of ceremony beyond the civil intention, it is burdensome—Your displeasure is too great for any man to bear—If any ingredient of displeasure be in your vote, it will lessen the authority of the vote—If precedents in the thing be disputable, would have a Committee to inspect and report in time certain, that the world may see you delay not the business.

Sir *Thomas Meres*.] No great man, be he as great as
he

he will, desires to contend with the House of Commons for Privilege; no man that considers the merits of this House of Commons, who have given more than all the Parliaments since the Conquest—Many kindneſſes we have done, and if Privilege be a kindness from the King, we have not the least reason to lose it—We are now upon perfect point of right; have we nothing of right? Must all be prudence and convenience? If you resolve for the same Privilege, why should you lose it now more than in the former Speaker's time? Mr Attorney has granted "that the writs not executed are superseded," and those Writs, moved for, he would have go out—Notification was not the word formerly, nor Certificate, but the Speaker, in 1603, sent his Warrant to the Clerk of the Crown.

Mr Secretary *Coventry*.] In the time of Lord Chancellor *Clarendon*, the Writs went by way of Certificate, not Warrant.

[Mr *Powell*.] Speaks to the merits of the cause—Iſſuing out of Writs, the Parliament not sitting—It is against reason that an inferior Court should judge of the defects of a superior—The inferior Courts at *Westminster* cannot judge the defects of Chancery; the Chancellor cannot judge of Returns. If he issues out writs, he makes himself Judge of Returns—He must judge that the Member is dead, and that the person returned has a right to the place, and so becomes a Judge of things done in this House. Formerly the King never chose a Speaker 'till the House informed him of a defect, much less can he take notice of defects of Members. The Chancellor does more; he judges of removes out of this House into the Lords House—31 *Henry VI.* a Baron of the Exchequer sat then, and now the House thinks it not fit*. Attorney-Generals have been discharged the House; and shall the Lord Chancellor take out of our House so learned a gentleman as Mr Attorney? Judge *Popham* was sent for out of the House of Lords, when reported to be there. 'Till 7 *Hen. IV.* all Writs were returned to the Clerk of

* In the Speaker's case. See p. 1.

Parliament—The King's Bench judges of returns of Writs, though issued out of Chancery; and though in *Henry IV's* time, Writs were returned to Chancery, yet that alters not the jurisdiction of this House—If you admit the Writs, you admit the Chancellor Judge of Returns—*23 Eliz.* Writs issued out, and Members were discharged, so returned; and *Ordered*, That during the sitting of this House, no Warrants should be issued out, but according to ancient usage—Sitting is in common acceptance from first day of sitting, though in a restrained sense, to the time of Parliament actually being here, restrainedly whilst it sits, but in common sense from the first day. They in Parliament farther agree, That issuing shall not be at any time without a warrant from the Speaker—*3 James*, nothing done against it—*Hertford* Writ for Election suspended—*1 Jam.* Sir *Francis Goodwin* was chosen, though Sir *John Fortescue* was recommended, for the county of *Buckingham*; *Goodwin* was clearly elected, and not *Fortescue*; when it came to the Council, both Writs were voided, and a new Election. Great inconveniences by it—Admit the Chancellor to judge of these returns, and by consequence he will judge all your returns. The right of judging returns was, in *Goodwin's* case, pretended to be in Chancery, but judged against it here. By this means the Chancellor may chuse whom he will, and so no great person ever be called to an account here.

There is no time set in these Writs, when the Member died; no time of death, nor remove to the Lords House. And the gentleman that vouched the precedent of *Queen Elizabeth*, might have done as many in this Parliament, if they would serve his turn—The calling of a Member into the Lords House, must be by our consent.

Mr Secretary Coventry.] If such Writs are rightfully issued out, you can put no question upon the superseding them.

Mr Hampden.] The meaning of your order is, to issue out Writs for places void here represented.

Mr

Mr *Swynfin*.] Whether such Elections are good or no, without referring the matter to a Committee, is the question—Has not heard one precedent offered where such Elections have been allowed of, if notice taken of them; it is but of late usage the moving of the Speaker—How does it appear that the writs, urged as precedents, were not issued out by the Speaker's Warrant, the House sitting?—These Elections out of sitting—The main concern is, he takes the book of this House to be a record. The Statute 6 *Henry VIII.* makes any person departed the House, recorded in your books, to lose his wages—In any thing that concerns this House, all Courts must take your books for a record, and whether a Member be or not, your book must testify—How can any Court say such a Member is dead? They can say he was returned; but that he was a Member, your Book must be fought—A man may sit here a year, and die, and yet not [have been] duly elected. If the Chancellor has power to send out, he has power to deny, a Writ—Now the question is, whether you will search records? Your book must still decide it.

Sir *Thomas Strickland*.] The Chancellor has the King's command to issue out Writs.

Sir *Thomas Clarges*.] The question is not, whether the King has power to issue out Writs, but whether the Chancellor, or the House of Commons, are to judge of vacancies. A Member cannot be arrested, and yet the King's authority is preserved—We should not be able to serve our King or Country, if our Privilege be not preserved—If scrupled, wonders that the reasons are not answered.

Mr Attorney *Finch*.] On the question of security and satisfaction, you have done it by voiding the Elections already passed. You have done it, and outdone all Parliaments—It is questioned, How a Chancellor can know a Member? Answers, By return. He knows he is dead by record, by executors and administrators. If they died since last Session of Parliament, no Warrant could

be had from the Speaker. If, instead of 30 or 40, 150 Members should be dead, if Writs may not go out, the Parliament must be dissolved for want of number—"Till you have made the thing unlawful, and say so, it is lawful to do so.

Sir *Thomas Meres*.] No Government but is subject to objections of all sorts relating to mankind. If such an extraordinary thing should happen once in a thousand years, the King may then, if he please, call a new Parliament. Precedents are muddy, not clear, on the best side—The King is as much King of this Court as of Chancery, and those arguments to the contrary are dis-obliging arguments.

Mr Secretary *Coventry*.] In Committees of Privilegés, you first send for the Mayor or Bailiff that returns the Election, before you condemn him—Will not you hear precedents for the Chancellor?—All that we have to do is to induce the King to be of our opinion—Do you believe the Chancellor will acknowledge he has done wrong, by submitting to your *Superfedeas*?

[*Resolved*, That all Elections upon the Writs [issued by the Chancellor] since the last Session, are void; and that Mr Speaker do issue out Warrants to the Clerk of the Crown to make out new Writs for those places.]

Friday, February 7.

Debate on the Supply.

Sir *Tho. Doleman*.] We have the King's Speech read, and his engagement in a war in it—Looks upon it as the consequence of the last war—Thinks the war just and prudent in the undertaking it, and therefore our duty to support it—We have made several calculations of the expence of the ships, which has been great—This Parliament is no less loyal than it was formerly—The last year a great fleet was set out, and now must be another—Proposes a supply, by vote, to give the King 70,000*l.*
per

per month, for eighteen months, by way of Land-Tax*.

Sir Thomas Meres.] Thinks there is no difference of a motion for the King's Supply from that side the House or this, both equally loyal. The King takes notice of "wars, old debts, his Declaration," and of that in the first place. It is indeed, and he guesses, and apparently should think so, that the King desired an union with his Protestant subjects—The Declaration of *Breda* to that effect. Something there is in this last Declaration that may shake the Law and Property of the subject, if the King and Council can suspend and make void a Law, which he fears it may do, therefore would have the Long Robe inform us, how far this may shake a Law; if it cannot, would be secured from this, and know the King's power in ecclesiastical matters.—In former Parliaments it was the question, whether we have any thing to give, before we do it; it is what the people expect for a return of their supplies—Would have it observed, that as the King may please one sort of people by this Declaration, he may displease another, and would have it put in the balance—As for the debt, it was examined 1,314,000*l.* next ware and tare, &c. you are engaged in a war; twenty instances of war advised with the Parliament; not that the King is obliged, but *de facto* has done it—Though he might have advised with us, yet believes it has been upon good terms, and doubts not of good success for

* Amounting in the whole to 1,260,000*l.* On this matter of the supply, Bishop Burnet writes as follows:

"The Court desired at least 1,200,000*l.* for that sum was necessary to the carrying on the war. The great body of those who opposed the Court had resolved to give only 600,000*l.* which was enough to procure a peace, but not continue the war. Garroway and Lee had led the opposition to the Court all this Session in the House of Commons." [*The supply was granted the*

third day of the Session, and these gentlemen had been at the head of the opposition long before.] "So they were thought the properest to name the sum. Above eighty of the chief of that party had met over night, and had agreed to name 600,000*l.* But Garroway named 1,200,000*l.* and was seconded in it by Lee; so this surprize gained that great sum, which enabled the Court to carry on the war. They had good reward from the Court, and yet continued acting on the other side."

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the future. If we give now, though not much, it is a great kindness—When rents were higher, we voted the King a supply suitable to his present occasions, and believes not a negative, the present condition of the nation considered.

Mr Secretary *Coventry*.] It shows good prudence in the House of Commons to have refused to meddle with advising war; it is the King's just Prerogative—Knows the deference and kindness the King, his master, has for this House of Commons—The motives of the war was your vote, you “desiring his Majesty to justify the honour of the nation, and that you would assist him with your lives and fortunes”—There was a consideration that byassed the King, the Protestant party; the King would only humble them; but in the progress of the war, after we had once beaten them, and *France*, *Dane*, and the Emperor, for them; after that the King made a league, as good as the nature of the thing would bear—The charge of the war great—After a complaint of the breach of the Triple Alliance, and the *French* for them, yet had that alliance been concluded, *Holland* might have ruined us by it, by our assistance of them. To attend them here in our Channel, there has been the charge of forty or fifty sail of ships, they having so many in our Channel. The question was then, whether to conclude, whether *France* and *Holland* on us, or *France* and we on *Holland*. Had the League continued, we must have transported men into *Holland* at great charges. In the articles with *Spain*, was particularly mentioned an article, called *Articulus Pensionarii De Witt*—(Then he proceeds to relate the business betwixt us and the Dutch, about the plantations and *Surinam*.) The intended affront of the flag. They gave their Vice-Admiral equivocal instructions or orders. We have found the danger of being against the King of *France*, therefore we joined with him, and he has succeeded beyond expectation. If we had a war with *France*, it would give *Holland* much advantage both here and in the *Indies*, that sea-monarchy; the *Hollanders* are more formidable to us than it was thought, if first we should
not

not be sure of the *French*. To these particulars, refers himself to Lord *Holles*, and whether the *Dutch* did not pursue our ruin by all imaginable ways—Hopes you will think the King has gone just and reasonable ways in the war. Those fellows are in the Tower now, that brought pretended treaties from *Holland*, but not a word of credentials from the Prince of *Orange*, or the States, and all in hopes of setting a difference betwixt the King and his Parliament.

Mr *Garroway*.] If *Coventry's* speech had not taken off the celerity, believes that by this time, you would have had a vote for Supply—Moves to go into a Grand Committee.

Sir *Nicholas Carew*.] Moves that a supply be granted according to his Majesty's necessities, and as the present condition of the nation will bear.

Sir *Robert Howard*.] Nothing expedites the King's service more than ingenuous dealing with one another—Does not believe delays hid in the breast of any man here—Since he has had the honour to serve the King in the revenue, both comings-in more, and goings-out less—The war managed without a penny given, or borrowed; the King asks no more than will save him from shame in the prosecution of the war.

Mr *Powle*.] Should he consider the poverty of the nation, if not beggary, and what things have been done since last Session, or the unhappy question of, whether Grievance or Supply should precede? Parliaments have excused giving advice, because they have excused Supply, and have protested against many wars; but when he sees a foreign nation justifying libels and abuses, and invading the King's Crown, he speaks the voice of all the people, That the King must be supplied.

[*Resolved*, in a Grand Committee, That a Supply be given to his Majesty of eighteen months assessorment, according to the proportion of the last Royal Aid, not exceeding 70,000*l.* a month. Agreed to by the House.]

Saturday,

Saturday, February 8.

On the King's Declaration for indulgence to Dissenters.

Sir *Richard Temple*.] The end of this Declaration was to invite people into the nation, and is not against a Bill of general naturalization—King of *France* has naturalized almost all nations, except *Spaniards* and *English*—We want people, and this will bring them in.

Mr *Garroway*.] If we have a general liberty, we may have good as well as bad people amongst us—Knows not yet what Religion we have ourselves—Moves that those who would be naturalized, may be named in several Bills, as many as they please at a time, paying 20s. a-piece only for the charge—Some have come in, but very few, upon that Declaration, though used very civilly.

Sir *Richard Ford*.] Moves for a Committee to enquire into the Declaration, to offer you such an expedient as may be for the good of the nation.

Colonel *Bireb*.] We hear the *Dutch* go to *Embden*, and other places, but few to us; unless you do something of this nature, the nation cannot subsist. The staple commodity is Corn and Wool, and if the people cannot get by it, they will come up by the Carriers, as we see daily they do, as if they were guards to them, and so to the Plantations, where they may do better—When the Bill comes in, then it will be a time to talk to you of their Religion.

Sir *Lancelot Lake*.] Remembers a complaint of *Irish* cattle coming in, and an imposition on them. Would have an imposition on the *Dutch* beasts also.

Colonel *Titas*.] We want nothing but persons to eat and work, be they of what Religion they will. The improvement of lands is a mischief to us. Fullness of markets, and few to eat—Old *Rome* grew rich, by naturalizing all people; and we have naturalized *Wales* and *Scotland*. Our workmen are few, and dear, and so Wool and other things are cheaper thereby—5s. for a pair of shoes, that the land-owner gets not 1s. by, there
is

is but such a number of good journeymen about the town, and they will work, or not work, as they please themselves—Would have alien duties free for native commodities.

(*Case of Privilege interfered.* In an arrest upon a Member's menial servant, the person arrested must be forthwith discharged, and then the matter of fact heard at the Committee of Privileges.)

Mr *Crouch.*] Moves to proceed on the King's Speech.

Mr *Garroway.*] Moves to consider the Declaration, that we may the better remove the ill constructions which other persons put upon it, and keep Law and Prerogative from interfering, which he hopes will be done with that modesty that becomes us. He is far from oppressing tender consciences, but would have the thing settled.

Mr Secretary *Coventry.*] The King intends not to violate your Laws; but the question is, Whether the King be mistaken in his Declaration, or no?

The farther Debate was adjourned to

Monday, February 10.

Debate on the King's Declaration resumed.

Sir *George Reeves.*] Moves to have that part of the King's Speech relating to the Declaration postponed.

Sir *Thomas Lee.*] Moves to have that part relating to the Declaration read.

[It was read accordingly.]

Lord *Cavendish, after the reading.*] Moves that the Votes of the House in 1662 and 1663 may be read, and the reasons against Toleration read—which were accordingly.

Sir *Thomas Meres, after a silence some time.*] In this affair we are like waters, the deeper the silenter; it is of great weight—He would have us leave the Laws as we find them, to our posterity—In the country, upon the first putting out the Declaration, he has conferred with books, and learned persons in the Laws, and finds that
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a general suspension of the penal Statutes is against Law ; if we are mistaken, let us hear it clearly proved—Speaks only to method ; if no man has any thing to say against it, there is an end, and let us go to the question.

Mr *Waller*.] When the state is rightly put, you will find it otherwise—The King says, “ he will stick to his Declaration, and likewise will not invade our Rights and Liberties.” Something there was of this at his first being in Parliament in King *James*’s time ; the Parliament desired him to put the penal Laws in execution against Recusants ; not a word then of property. They proceeded to the Petition of Right when property was touched—In the business of ship-money, they went to the Lords to have the Judges punished—Opinion of this House clear, no Prerogative—Our ancestors knew that Kings can do no wrong, and, for point of safety, the most unbounded Monarchy in the world—The King beats his drum for war, when no man can—*Henry VII*’s Proclamations were heard farther than his guns—Has observed formerly too much pressing of penal Laws—Lord *Coke* says (who was no great friend to Prerogative) “ that Kings have, and ought to have, power in these things”—*Empson* and *Dudley* never broke any Law, but advised only the setting penal Laws on foot ; whenever the legal Prerogative may supersede—Has often heard that the King allows the *French* Churches, for good of trade, as at *Venice* the *Greek* Churches. Shall the King dispense for trade, and not for peace ? Because he is an *Englishman*, must he not have the benefit of the indulgence by the King’s power ?—Has heard it from Lawyers, that no Prerogative that is legal can be taken away by inferences of State. No branch of the Common Law must be taken away but in express words ; *in conceptis verbis*. To take away flowers of the Crown, we bring stones on our heads. The King pardons Traytors, who are as bad as Dissenters. *Armis ornatum et legibus armatum*, says *Justin*.—He believes that the Dissenters repent of what they have done ; but that Dissenters should at every Session have all hope taken away, can you imagine greater persecution ? You will find they will

will affect your rents, and your trade. In this the King innovates nothing; the Church is part of the State, but the State no part of the Church—*Theodosius* and *Constantine* made edicts, and he that disputed them was put into a sack, and thrown into a river—Bishops were not as some are now; they were humble and godly men. The ignorant zeal was then as now; the Emperors without that power could not keep all quiet. The more supreme power resembles divine, the better it is. God uses menaces as to *Nineveh*, but does not always destroy—The Petition of Right shall never be altered—Must the King beat his subjects with one hand, and *Amsterdam* with another? You had no mind to take the King's power from him, because your vote in the Act of Conventicles does not say so—Moves not to strike at a power so near the King, and necessary for the people, and peace.

Mr *Powle*.] Would comply with the King, to do in a legal way, as now the Declaration does in an illegal—Would know the King's power in temporal Laws—He does conceive, if the King can dispense with all penal Laws, he may dispense with all Laws with a *nonobstante*—Special cases may so happen, that cannot be executed, but in others the King cannot dispense, but may pardon the offender—In the great case in the Exchequer now about Wine-Licences, a general suspension of Law amounts to an abrogation, which none can do but Parliament. This being so, by the words of the Declaration, forty Acts of Parliaments are suspended, some Treason, some Felony, Banishment, Mulcts, and the King cannot dispense them. By the Declaration the King intended no imposing upon his Protestant subjects; but it is clearly so upon the Judges and Justices of the Peace, who are sworn to execute the Laws—Does not this impose upon causes ecclesiastical and temporal? You make the King equal in ecclesiastical matters to temporal, and no more. Ecclesiastical matters anciently were committed to such persons as the temporal Magistrates—No appeals to *Rome*, no Legate, or Nuncio, to come into *England*, without leave of the King—When the Pope and
Henry

Henry VIII. differed, he resumed his ancient right, by being declared supreme head of the Church, in the Convocation, by instrument, which was nothing but the ancient Common Law restored, which was clearly expressed—1 *Elizabeth*, all causes ecclesiastical restored to her, as well as temporal; no more power in the one than in the other. The Proviso in the Conventicle-Bill might as well have exempted in that Bill, and as well put in, in the Bill of the *Irish* cattle—The King cannot command, but by matter of record—The officers are to pass seals against Law at their perils—This is only a paper order (the Declaration) under no seal; how can the Justices take notice of it? Their Commission is under seal. The Consequence of this is direful; the King by this may change Religion as he pleases; we are confident of him, but knows not what succession may be—Something of this nature was in the *Spanish* match. Bishop *Abbot* said, “No toleration could be but by Act of Parliament;” *Williams*, the Lord-Keeper, excepted against it. When the King was rightly informed, in his Speech in Parliament, he disclaimed it—Look into the nation, and you will find nothing ever raised such doubts as this Declaration—If it be found to have these inconveniences, hopes the King will be moved to recall it.

Mr *Seymour*.] It has not been very unusual that this House has stopped the current of his Majesty's grace and favour—To Mr *Powle*'s argument “of the Magistrates oaths.” By 25 *H. VIII.* which regulates dispensations, the Judges have declared the right is not taken from the King, in the case of *Port* and *Love*—In Lord *Hubbard*—In *Henry IV.* dispensation for a bastard to be a Priest, against the Pope's jurisdiction; the King had the right then—Capital Laws cannot be suspended, but punishment pardoned. It may be the penal Laws are so lodged in the Crown—That of the subject is so mixed with the King in the penalty, the King may dispense with his own part, the subject's part he cannot—The *Irish* cattle *hic et nunc*—2 *Elizabeth*, felony to export money, *malum prohibitum*—Laws that relate to Government the King

King cannot part with, and *e contra*—Sir *Arthur Ingram*'s case was an office bought, and void, because against Law; but in this case here has been no man's property invaded—Will you think that this shall have Royal Assent to bind up the King's hands? If an Act restrain the power of the King, these Acts are void—If our liberties are invaded, would have an Address to the King, and doubts not of a redress from him.

Colonel *Strangways*.] Will lay down some *postulata* of our Government: In all Kingdoms there must be a legislative power, and in ours not without consent of both Houses of Parliament; the Judges, in doubt, to explain the King's Laws. Laws, when first made, were necessary, and in process of time useless, and may be repealed, but still by Law. Must not the Judges execute the Law according to their oaths; and if they do not, are they not responsible? We own the King's power to dispense with the punishment, by pardon; but the King cannot dispense with a man to be a Papist, or Nonconformist—Values not ceremonies, but that they are by the Magistrate's authority. You grant that indulgence to persons that do not allow that power, in all lawful and honest things. What are we sent for here, if this be not *arduum negotium*? If Justices of the Peace have difficulties, they advise with the Judges; and those that have the honour to serve the King, might have advised this business with the Parliament—No country in the world where there is this indulgence, but there is a standing army. If the Sheriff shall, without occasion, summon the *Posse Comitatus* of the county, upon complaint made, he ought to be punished. The King's Ministers have done wrong, and by colour of the King's command to justify them!—Would never have the King deprived of the advice of both Houses, composed of so many persons of worth and loyalty to be trusted—He counsels the King best, who does it to maintain his Laws—An Usurper has as much power as a King that breaks his Laws. If no settled course be taken, we cannot expect any thing but confusion—It is the Law of *England* that condemns

Treasons against him, and preserves his person; let us maintain it for his interest—It was his misfortune to sit here when negative voice was denied, and hopes he will not deny us.

Mr Secretary *Coventry*.] Thinks a positive declaration in this business dangerous; what will become of us all in emergencies, if, in fire, we are restrained from breaking open houses, or, in war, from marching over mens grounds?—Would not have us enquire into the just extent of the King's power, but address ourselves to his Majesty about it—The Master of a ship has power to throw goods overboard in a storm, though it is not consequential in a calm; though all Laws are not of the same importance, yet all are of the same authority. This House has made Addresses to the King for a Dispensation for *Lent*; it is no ecclesiastical thing, but to preserve cattle. You would not move him to an illegal and bad thing—To take away a liberty, and to give, are both alike in power—You desired the King to issue out his Proclamation to forbid bringing in of wines, that none should be landed after such a time—Would tread in those ways we always have done, that when we have any thing that offends us, we may address ourselves to the King to redress it, be it Religion, or Treaty, or Property; but to say that we shall irritate the King to all the penal Laws of the Kingdom, which if they must be the King's duty, *Empson* and *Dudley* were wrongfully taken away—Either the King must have the liberty of dispensing, or else is always obliged to put the penal Laws in execution.

Sir *George Downing*.] The King says, "the power is inherent in him;" but if the Question must be of the power of the King, he will be tender in it. Gentlemen that make account of their loyalty may give their voices freely in it; he, that has done otherwise*, cannot be so free—We are now modelling the Government—In 1641, nothing but calm questions, nothing but securing property. But what followed at last? Monarchy came in,

* Alluding to his having been in the interest and service of *Cromwell*.
without

without conditions—Laws are in words; but that Government that shall be in words, is destroyed—The Speaker said, “we have been taught by his predecessor, that Privilege, whether twenty or forty days, is not to be put in writing to be circumscribed.”—Can Government be without arbitrary power?—The Courts of Justice make Rules by the Judges and Chancellors, according to equity, conscience, and circumstances. If every bond put in suit, and loss of evidence, be not relieved, where are we? And yet all this is arbitrary—You must at last go to the Lords, and be well armed, to make it out with them.

Sir *Philip Warwick*.] The gentlemen of the Long Robe have left the dispute to us, being loth to disturb what they have most advantage by.

Sir *Thomas Lee*.] The Judges have not changed their charges, in their circuits, upon this Declaration—Moves that as pardons are made void by circumstances (many are not) how far a power by dispensation may dispense the Law, may be declared—Doubts whether, if Judges had been consulted in the Declaration, it had passed, or no.—Transporting silver, without leave, felony—Laws may be useful to-day, and not to-morrow; but would have the judgment here—Would not meddle with Prerogative, any more than with your Privileges—Could something happen that no mortal man could foresee, and the King raise money; were necessity so great that all men may see it, no Parliament would question it. It is not the first time the King has been deceived in Prerogative—Hopes that, in this, he will be advised by the two Houses of Parliament.

Mr Attorney *Finch*.] The Long Robe he perceives blamed for being backward in declaring themselves in this business. What is incumbent on him he will discharge. He has been unhappy that his mistakes have been represented to his prejudice, rather than his good meaning to his advantage. There is no question of the King's power of dispensation, where the forfeiture is his own—The penalty, in popular Laws, is moiety to

the informer; the King may inform for the whole, and dispense for the whole—Monopoly nor licence good in many cases—It is no question that the King may not repeal by Prerogative. In this case the King does not repeal; undoubtedly the King is not more absolute in ecclesiastical affairs than in temporal—By Common Law the King grants leave to hold livings *in commendam*, and unite parishes; and the same power the Pope had, the King is restored to by the Statute of *Hen. VIII*; the Law is not changed at all. The King by that Statute is head; that no foreign power can pretend to; and therefore it was ever the interest of the nation to take a temporal Pope for a spiritual one—The Canons not to contradict the Law of *England*—Necessity cogent that this Declaration should be made for quiet, there was so universal a connivance with an indulging recusants got from their neighbours; and now they may thank the Crown. Now the Question is, whether the King cannot dispense with the Laws, in order to the preservation of the Kingdom, (and we are all miserable if he cannot do it.) There is an impossibility of foreseeing all inconveniences—Some Laws can never be executed, as the Law about cart-wheels, suspended by Proclamation; no complaint made of—Planting hemp in *Ireland*—We have allowed the thing, but differ *de modo*—Would have it laid aside, because the King desires it, and his enemies do not desire it; let us do it with all reverence to the Crown—Would have us show more affection than learning in it—A mathematical security we cannot have; a moral one we have from the King—The King cannot dispense with Common Law—Religion cannot be changed without Act of Parliament. You may secure what you would have, without making so hard a vote as is proposed. Some would have a Bill for it; that is hard. Will you tie the King to indulge those consciences whether he will, or no? Now tender, hereafter may not be so—There is a great necessity to keep a bone from betwixt the King and Parliament, and hopes you will propose nothing but what the King may well grant.

Mr

Mr *Vaughan*.] When the King may dispense with any Law, it must be manifestly for the good of the subject; if it does injury to the subject, it is illegal; if not, it is otherwise—No man is bound to a Law, where there is not a punishment; and if this Declaration signifies any thing, the Church of *England* signifies nothing—He argued the dispensation with Merchant-strangers. You cannot hinder them, by Law of Nations; if they come for gain to the Kingdom, it implies toleration—The King may pardon Murder, or Treason, but not give licence to do them—If not dispensible to violate the Sabbath; if the King cannot dispense with the Law of man, *à fortiori*, not with the Law of God—All sorts and manners of people are dispensed with by this Declaration, *Turks, Jews, &c.* This Declaration is a repeal of forty Acts of Parliament, no way repealable but by the same authority that made them—This Declaration does repeal fourteen Statutes of this King—Those who will take no oaths at all, and so Justice cease. It voids all testimony, and takes away my liberty, or estate. It is point-blank opposite to his Laws; they and this cannot consist. If Monarchs were as lasting as their Kingdoms, there could be no danger in this Declaration—We, that are Magistrates, lie under the King's censure for our oaths, but in a perpetual danger, in all places, from God.—As liberty of the subject consists in his right, so would have it measured by Law.—This Prerogative is illegal, and our vote will say no more than the Declaration does in effect.

Sir *Robert Howard*.] We are told “that all is swept away by this Declaration;” but what is the Church, if you come not to the observation of all its ceremonies, Church-wardens, visiting, and presenting, &c.? Is it an argument, that the Church of *England* is unsupported, unless every man be compelled to every thing in it? But the Church of *England* is not concerned in this Declaration. Things are come to that height, we cannot pull them down again—He has expected to hear where property has been concerned; life, liberty, and estate is property; now, would you know how any of these is in-

vaded? You have seen dispensations here, and have not thought them grievances—The Archbishop of *Canterbury*, *Laud*, found fault with the *French* and *Dutch* Churches.—Will you set up another Government?—The Long Parliament inserted this into one of its Articles; see how Parliaments change—An unhappy time was that, and some took unhappy parts in it—Nothing can gratify the Pope more than to say the King has no such jurisdiction—It is said, “What shall the Judges and Justices of the Peace do?” They receive an indulgence, the King has power to grant—It is a strange question to dispute what Prerogative is, when all Statutes make it so sacred a thing—The King says, “it is legal, and he will stick to it;” and we say, “it is not legal, and he shall not.”—Is the Black Rod at the door? Shall we so hastily fall into such a vote? If you think your civil rights are in danger, you make the Declaration *probabilis causa litigandi*—Do Papists make ill use of it, or any other cause? Then address the King, but vote it not illegal—Proceed not this way to the King, else the *Hollanders* will rejoice.

Sir *William Coventry*.] This is a point tenderly to be handled, and hopes to propose something towards a close of the business—Will wave all arguments from an universal claim of Prerogative to be universally exercised—Our ancestors never did draw a line to circumscribe Prerogative and Liberty. He hears no man urge this Prerogative more than when the King cannot have a Parliament; but when a Parliament does come, something, you say, must of necessity be done, else you say it is legal, and that allows it—It has been moved for an Address, but no man says upon what subject-matter—This vote of the subject-matter of great difficulty—But since you may enter into debates you would avoid, he proffers you words not his own, but yours, upon the Declaration of *Breda*. It says, “Laws then in being, that could not be dispensed with but by Act of Parliament.”

Sir *Thomas Meres*.] We may, at this time, come nearer his Majesty than ever; for now the House of Commons
having

having seen how little good force will do, it may be, the reason of the thing will oblige us in a fair legal way of doing what the King has been designing these twelve years. This may prevent those heats that have been, more or less, about ecclesiastical affairs, almost every Session this Parliament.

Sir *Philip Musgrave.*] Believes that his Majesty had gracious intentions in this Declaration, but it did make disturbances in most loyal hearts—Moves to take that way that may have the least reflection on the King—Has seen sad effects of it—Moves for an humble Address of this House to his Majesty, to preserve the Act of Uniformity.

Serjeant *Maynard.*] Dispensation of the penal Laws to be illegal, is more than you intend to vote—It is agreed on all hands, that the King cannot suspend so as to repeal; else why do we make any Law? He may make them as well in ecclesiastical matters—Whether universal Dispensation, not limited, does repeal a Law, or no, he will not enter into dispute—Would distinguish, in the Question, “Popish recusants;” but whether “legal or illegal,” is too harsh.—Rather for an humble Address to the King to remove our fears in the business.

Sir *Robert Carr.*] When we consider what ways have been taken to quiet people, the thing was dispensed with by Justices of the Peace, and the people ought not to owe that to the Justices, which should be to the King—Hears not one instance against property—Would have a Committee to pen the Address in such words as we may not repent when we have done.

Sir *John Birkenhead.*] Recusants were tolerated ten years in the beginning of Queen *Elizabeth*; and no Laws were made against them, till she was sure she could make them good. The oath of Supremacy not exacted in the Lords House; but the Commons got them in by incapacitating them for offices till they had taken that oath—Conformity a thing much in option.

Colonel *Titus.*] On both sides gentlemen have acquitted themselves well—*Coventry*’s motion was to alter the words of voting; the Declaration illegal is not the matter—Moves for an Address to the King, “that penal Laws,

in ecclesiastical matters, may not have their force, till the Parliament shall declare some act in the business."

Lord *St. John*.] 21 *James*, chap. 3. In King *James's* Declaration, a Law rather than a connivance—Moves, in the most humble way, the same words we did before, and hopes it will not offend the King.

Sir *Edward Dering*.] Is no advocate for the legality of Declarations; we need not look farther back than 3 *Charles*, liberty infringed; some sent abroad, *Hammond* and *Glanville*; banishment, martial Law; then an Address was made to the King, that the thing might be redressed—We rather now speak what we fear, than what we feel. The King has given you liberty of Address in all difficult cases, and moves for a Committee now for an Address to the King.

Colonel *Birch*.] If ever men were to answer for a trust, it is this: Can Laws be any ways suspended but here?—Desires, unless some will make it out, that we may pass it by; we must do it; if dispensation cannot be made out, then put the Question.

Serjeant *Seys*.] The carrying out Wool, and bringing in *Gascon* Wines, and transporting Bell-metal out of *England*, were particular things, and not at all invading the Rights of the subject. From the dispensing with cart-wheels to jump to that of conscience, is a *parvis ad magnum*, that makes us have reason to fear. Patents are judged unlawful every day in *Westminster*, and voided by *Scire facias*. The Laws are no ways to be suspended but by Act of Parliament.

Sir *Thomas Osborne*.] Does not wonder that the King expresses these things to be his inherent right, when his own Council thinks so, and his Counsel at Law—Moves that the Address may be referred to a Committee.

Mr *Harwood*.] Hopes the King will hear the Counsel of this House; his great Council, as well as his other Council.

Sir *Thomas Lee*.] What is the use of his great Council of Parliament, but to inform the King he has been misled and mistaken by his Privy-Council? It is our duty

duty to the people, and the King calls you to declare your opinion. It plainly appears to be a mistake in the Crown, and you must inform him of it.

Sir Robert Howard.] If a *Noli prof.* be entered by the King's Attorney-General, is not this a suspension, and will you hinder that?

Mr Attorney Finch.] Knows not one of the King's Counsel learned [in the Law] that ever saw this Declaration otherwise than in print, and he never made any other inferences from it than you have done. The King, by his Supremacy, may discharge any cause in ecclesiastical Courts, they being his.—Why do you put an universal term upon a thing particular?—Moves that we may humbly petition the King that it may be so no more.

Mr Cbeney.] Would not have it thought abroad, that there is such a necessity of this Declaration as is implied, the King having his Militia to protect him—Would address the King to suspend his Declaration, and form it into a Law.

Sir Charles Harbord.] Laws must be altered by the same authority they were ordained by. It has done him more hurt among his father's friends, than good to those indulged—Support the Prerogative by the affections of the people; they are twins. Is against the Question.

Mr Waller.] Words that sound true, and are parliamentary, are better than those that are not. It has been good doctrine, that an Ordinance has had the power of an Act by the King's consent.

Colonel Strangways.] Thinks it worth enquiry, whether the late Lord-Keeper did not refuse the seal; the Judges never consented—Would not have those that are not Lawyers, nor Divines, prescribe out of their profession—Does not find them consulted—In point of Law, would have the King advised by those that profess the Law.

Mr Attorney Finch.] Some Canons, first of K. *James*, the King may dispense with—Is it your intention that the King shall not dispense with them?

Mr Powle.] Those Canons were not passed by Act of Parliament,

Parliament, nor ever confirmed, and so not within your vote.

[*Resolved*, That penal statutes, in matters ecclesiastical, cannot be suspended but by Act of Parliament, 168 to 116; and a Petition and Address were ordered to be drawn up to be presented to his Majesty.] [Adjourned till *Thursday*.]

[*Feb.* 13, omitted.]

Friday, Februdry 14.

Mr *Powle* reports the Petition and Address to the King upon the above vote, as follows :

“ Most gracious Sovereign, We your Majesty’s most loyal and faithful subjects, the Commons assembled in Parliament, do, in the first place, as in all duty bound, return your Majesty our most humble and hearty thanks for the many gracious promises and assurances which your Majesty hath, several times, during this present Parliament, given to us, that your Majesty would secure and maintain unto us the true reformed Protestant Religion, our Liberties and Properties; which most gracious assurances your Majesty hath, out of your great goodness, been pleased to renew unto us more particularly, at the opening of this present Session of Parliament.

“ And farther we crave leave humbly to represent, that we have, with all duty and expedition, taken into our consideration several parts of your Majesty’s last Speech to us, and withal the Declaration therein mentioned, for indulgence to Dissenters, dated the 15th of *March* last; and we find ourselves bound in duty to inform your Majesty, that penal Statutes, in matters ecclesiastical, cannot be suspended but by Act of Parliament.

“ We, therefore, the Knights, Citizens, and Burgesses, of your Majesty’s House of Commons, do most humbly beseech your Majesty, that the said Laws may have their free force, untill it shall be otherwise provided for by Act of Parliament; and that your Majesty would graciously be pleased to give such directions herein, that no apprehensions or jealousies may remain in the hearts of your Majesty’s good and faithful subjects.”

[*Debate.*]

Sir *Thomas Littleton*.] Several motions were made at the Committee for an Address to the King “ for ease of tender consciences.” When we say this vote, we ought to do the other; but the Committee would not agree to it—Moves now for a Committee to draw such a Bill, and that the Address may be re-committed.

Mr

Mr *Swynfin*.] Thinks you rightly moved by *Littleton*. Your sense was to go no farther than to secure the Law, and preserve the true strength of the Statute-Law. Nay, farther, it seemed to all mens sense, that some consideration should be had of the indulgence; great reasons were given for the matter of it, as the war, trade, &c. as far as might be for the safety of Religion; but the Committee could not originally express it, having no authority from you, therefore no haste, it being to be sent to the Lords—We have had so ill experience of those Laws, that he hopes we shall consider them—If the Kings of *France* and *Spain* should draw their subjects to prison, and persecute them, they could not preserve unity—Sees nothing in the Declaration but you may well dispense with, but the preservation of the Laws. If you shall go so far as a Law for the Declaration, it will be no difference, only the Declaration turned into a Law, and so you have your end in it—Moves to appoint a Committee to prepare a Bill to that end, which cannot but appear well, both to King and people.

Sir *Thomas Meres*.] Is one of those that think “ease fit for tender consciences,” in the words of *Breda* Declaration, “for union of the Protestant subjects;” but how shall we proceed? No Committee can do it, that is numerous—Three men of a Committee better to draw a Bill, than twelve upon the subject-matter of a vote—Would appoint to-morrow for this end, that no jealousy may be objected—Knows how matters will go when money is passed—Would not have this Debate stop the Address to the King.

Sir *William Hickman*.] The other day, there did appear a general inclination “for uniting Protestant subjects.” It is a thing much to be thought of, and would have *Monday* appointed.

Mr *Cheney*.] Would have persons withdraw, to add a few words to the Address, of uniting his Majesty’s Protestant subjects.

Sir *John Monson**.] Thinks it not proper to add any

* Knight of the Bath, great grandfather to the present Lords *Monson* and *Sandes*.

thing to the Address, 'till we have passed this Address by vote—Moves for to-morrow at ten of the clock, to take this business into consideration.

Mr Crouch.] The Question is, "Agree, or not, with the Committee;" adding to the Address is but to distract things; and if you agree not with the Committee, then it is irregular to debate adding.

Mr Garroway.] It would have looked so like bargaining, if the Committee had put it in, that they waved adding any thing to it.

Sir Richard Temple.] The Committee left out the addition, because they expected some previous vote from you. Though the manner was not concluded in your Debate, yet every man agreed to the matter of the Declaration—Will it not be an abrupt Address to the King to find fault with the Declaration, and not say any way you would have the thing remedied in the matter? What difficulty do you put upon the King?—Would it not be proper for you now to speak it, that you have it under consideration to provide for relief of dissenting brethren?—Would have a vote passed, to take Dissenters into consideration, and have it put into your Address.

Sir Thomas Lee.] Would have you informed by the Chairman of the Committee, whether ever it was debated to have it part of your Address.

Mr Powle.] No sense of your Committee that it should be part of your Address.

Mr Vaughan.] Denies that it was the sense of the Committee—They thought it unparliamentary to inform the King of any such thing, and they had no ground for it; for untill you had voted the thing, they could add nothing to it.

Sir Robert Howard.] You must first put the Question of "agreeing with the Committee" before you can add any thing.

Colonel Birch.] Does not agree with those gentlemen. It is not parliamentary to add (if you intend it) after having voted the thing. The thing moved to be added, could not appear to be true at the Committee—Would
always

always have the King thanked by Dissenters. The Committee could not do it, the House having not voted the thing of indulgence—Desires it for the honour of the King, that you make a vote for taking the thing into consideration, and then vote your Address.

Resolved, That this House doth agree with the Committee in the Petition and Address.

Sir Thomas Meres.] What will you do with this Address? The Address must go to the King, and it is usual to send to the King to know when he will command us to wait on him, by some of the Lords of the Council of our House.

Mr Garroway.] Has seen many Laws passed, with much zeal, against Nonconformists and Dissenters in this House, and much hardship upon the people, but without effect—Would have all things done with sobriety and tenderness, and for that end would have a vote from this House, that you will declare so much to his Majesty in this Message; we can make no other promise, but that we have such a thing under consideration, though we cannot see the effect upon Debate.

Sir Charles Harbord.] Usually the Lords concurrence is asked, and hopes they will agree with you.

Mr Crouch.] Would know what this Bill should be brought in for, upon what heads, what you would add, or repeal? Seconds the motion for the Lords concurrence.

Mr Seymour.] Never thought it fit to persecute or prosecute any person, that believes not as he believes; it may have the power of the sword, but not the power of godliness—When this Address is presented to the King, would have it declared to the King, that this House has it under consideration.

Sir William Coventry.] Is the same man in this to-day, as he was the other day at the Debate of the Declaration. That thing was knocked on the head at the Committee, because no order from you; and the Committee thought it not fit to promise that which we were not certain to effect, and that was the great reason at the Committee.

mittee. If we promise, we must perform, though to our detriment—The Committee must have heads to work upon—Some are for indulging Protestant subjects only, and some for extending it to Catholic subjects. It may be, those great promissory words may amount to more than either you or the King means—Would have *Monday* set apart for the matter of Dissenters to be taken into consideration, though he believes men are, by the discourse of the thing, prepared in their opinions, though not in their judgments.

Sir *Thomas Lee*.] Thinks it necessary that now you do something, because possibly something in your Address to the King may startle those kind of people, the Dissenters—To pass a general vote may be so construed, that it may perhaps be too general; [such] a vote, perhaps, never passed here before—Moves for a Bill for uniting Protestant subjects. Here is ground for you, though he would be glad to see a man so happy as to comprehend all your senses in that Bill—Pass the vote, and I hope something may be done this day.

Mr Secretary *Coventry*.] Though the thing be of as great importance and large extent as may be, if you intend to thrive in the Address to the King, you must prepare something of such a vote, as is mentioned, to the King—Would have no Bill admitted, but upon your vote, and reasons for it.

Sir *Nicholas Carew*.] “Tender conscience” is of large extent; *Turks, Jews, &c.* have consciences—Would have “uniting Protestant subjects” added to the Question.

Sir *Robert Howard*.] As you would confirm the minds of some, so you would give terror to others. You must do something to indulge as well as unite; it is not fair to bind it up thus.

Sir *Robert Carr*.] Is pleased with *Carew*’s motion. For aught he thinks, he that pretends to be one thing, may be a *Turk* in his heart, and therefore would have it general.

Sir *Thomas Meres*.] Does believe the word “ease” is the business which is disputable, whether toleration or
compre-

comprehension. The words of his Majesty's Speech are, "ease of Protestant subjects in matters of Religion."

Colonel *Birch*.] If you will give indulgence in an Act of Parliament, your Question must be "for ease of Protestant subjects."—Moves for it.

Sir *George Downing*.] You intend this vote to be presented to the King; he should be loth you tell the King what we shall not be able to do—Would, on *Monday*, have the House in a Grand Committee, and stop the Address in the mean time.

Sir *John Duncombe*.] Upon this Debate of tender consciences, every man is for himself, and excluding others. He speaks of a tender conscience-man, such as has been born in his Religion, and lives peaceably in it—Do what is agreeable to Charity; lay not your foundation too narrow; let all have the benefit of indulgence. Not an universal ease, but you must qualify it. They all are alike to him. He would consider none of them for indulgence as opposite to the Church of *England*—The last Session, the motion for indulgence was diverted—Thinks no peace now without it—Would have the Debate be "for ease of tender consciences."

Sir *Charles Harbord*.] The King, in this business, is most troubled of all men. Something must be done, we shall else put the King upon some great necessity—Would have a Bill "for ease of tender consciences in matters of Religion," and that will be capacious enough—Has regard to the Church, as built upon the State, the Monarchy.

Mr *Harwood*.] Sees something at the brink of men's lips that will not come out; our aim is to bring all dissenting men into the Protestant Church, and he that is not willing to come into the Church should not have ease. Many of these persons differ not but in discipline, not in doctrine—Would have the Question "for Dissenters of the Protestant subjects only."

Mr *Milward*.] Is for debating this business in a Grand Committee, that persons may reply one upon another. They may be seemingly Protestants, yet not truly so—
He

He has a great tenderness for such as have been brought up in their religion—Would have a difference between monarchical Dissenters and antimonarchical.

Sir *Lancelot Lake.*] Would spare tender consciences, because so few make any consciences of their ways—Before we proceed, would have us agree in the definition of “a tender conscience.”

Mr *Garroway.*] In plain *English*, would not put *Romanists* in the Bill—Would give them some ease, but would have them publickly in all their robes; and if you might see them in all their frippery, believes you would not have so many of them—If the *Papists* had arrived at their end, you had not sat here now—Would have them favoured, but not as trees to bear fruit, only as pillars to be seen, they giving no such liberty in any place of the world, they having inquisitions and persecutions.

Colonel *Strangways.*] Conceives that the Declaration, issued out in the war, was to have peace at home—Would not have it in any man’s power to hurt the Church; first consider the Protestant interest, and put that to the Question.

Mr Secretary *Coventry.*] Hopes you will provide something that men may not be outlawed—A preliminary vote cannot be brought in, for you are not resolved whether comprehension or toleration—Thinks it a thing of the greatest consequence in the world to bind up yourselves, and not hear reasons first.

Sir *Thomas Clarges.*] It was an insinuation from ill people, that the late King had an inclination to Popery—After *Edgehill* fight he did declare, “that the *Papists* in the Parliament’s army were equal, if not more, in number, than in his own”—He blamed much the remissness of the *Papists* in that battle, that they did not their duty—Will say nothing to their estates, but to be part of this Bill will destroy all our Religion—’Till 11 *Eliz.* no difference in Religion; all went to Church, ’till *Pius* fifth’s Bull came forth, dissolving all allegiance of her subjects to her. No Acts were made against the *Papists* ’till

22 *Eliz.*

22 *Eliz.*—In King *James's* time, the jealousies of that Religion were much the cause of what followed—The Duke of *Ormond* made a treaty with that army in *Ireland*, to the end he might preserve the King's person, then in danger in *England*, and they were, by those articles, to have liberty of open profession of their Religion, and equal numbers of officers in the army there. They fell from this, and declared for the Pope, and so they showed their loyalty; but the Parliament army, when they were better informed, laid their arms at the King's feet, under Gen. *Monk—Molinos, Zuares*, and many other Jesuits, held it lawful to depose Kings. One has written a book at *Paris*, which he is ready to publish when called for, that proves the Jesuits were the authors of the King's death. These people, out of an excellent good intention, commit High Treason every day, going to jails to convert people condemned; they get into our houses, perverting people every day; surely his Majesty's good intentions are abused.

Mr Waller.] Whether general words of inclusion?—Thinks rather general words, because he would not have an Act of despair on Papists. There are but two ways of changing Religion, by Act of Parliament, or by force; by Parliament impossible, none coming in here amongst us. If we were to make new Laws against them again, we could not do it—Has a sense of kindness for any persons that suffer. Our Saviour had some for him that suffered with him—Hopes the Papists may be capable of some favour, as well as other Dissenters.

Sir Thomas Littleton.] We ought not to make the Address partial as to Dissenters—In the King's Speech the Papists are not spoken of. It is better to reduce the Papist to something, for he is now always in fear, and yet always escapes—Would have a full answer to the King's Declaration.

Sir Thomas Meres.] What is it that makes us now so zealous in this Question, but our fears of Popery? And he hoped never to have occasion to speak to it here—Let us take care that, whilst we dispute the indulging

the Protestant subjects, the third dog does not take the bone from us both.

Mr Attorney *Finch*.] You are labouring to put a Question in terms exclusive. It is an unnatural way to exclude ease of persons—At a Committee you have lately voted an Address to the King. The King may believe that the manner, and not the matter, does displease you. Your thinking his Declaration illegal cannot be grateful to him. Vulgarly speaking, a Protestant is a negative, *viz.* not a Papist, but, affirmatively, what, is difficult to define. If a Protestant, according to the Church of *England*, you exclude all persons that differ but in one article. We cannot consider Religion in Parliament, but as part of the Civil Government; its doctrine, God forbid we should—Does any man hope ever to see the time that there shall be never a Papist in *England*? He may hope never to see an error, and yet the Scripture says, “there must be errors, that they that are approved may be made perfect.” In all times there were *Roman Catholics*, though the Bull of *Pius V.* in Queen *Elizabeth*’s time, and the Powder Treason in King *James*’s time, fired every man with indignation. Priests there will ever be. Queen *Elizabeth* employed Lord *Clanrickard*, a Papist, in highest trust. They may do good, when impossibility is taken from them of doing harm—When you go and tell the King he is mistaken, and that no temperament or relaxation, believes it will have no vote—We are masters of our vote, but not of the interpretation of standers-by. Hopes it will suit with all the ends of Piety and Christianity, if the vote be general, and it is for your honour to have it so.

Sir *William Coventry*.] It has been said, the word “Protestant” excludes the Papists—Would have the word “Protestant” to stand, that they may know you use some other manner of kindness, than to the Papists. The King has restrained his favours to them; I would have you do so too. Believes it is the intention of no man here to equalize them in his thoughts. [*Here he stopped a while, and desired leave a little for recollection, and then proceeded.*] He

He supposes the Declaration was to quiet persons in consideration of their numbers, so that the Papists have no claim, if few, then not considerable. If so few as we apprehend and hope, they are not considerable in the war; if many, it is time to look after them, and hinder the growth, and would not mingle them therefore, but retain the word "Protestant" in the Question.

Sir Robert Carr.] Likes neither the Papists nor Dissenters, but the Papists have fought for the King, the others have not; therefore would have more kindness for them.

Mr Powle.] Never thought of extirpating the Papists, but would not have them equal to us. Their insolence is the complaint in every street. This has filled the minds of the people with apprehensions. They have abused the King's favour. There are some good and some bad among them. Would have the nation secured of our own Religion, especially seeing that some of them have crept into commands and employments—Would have the word "Protestant" in the Question.

Sir Henry Herbert.] Is not for enlarging the Question, for the Papists at this time enjoy liberties beyond us. They are neither Sheriffs, Constables, nor Tything-men, nor are any Laws put in execution against them. Knows very well that at *Edgehill* battle, the late King complained that they did not their duty, and during the war they lay couchant at *Worcester*. Religion is to be preferred before all considerations. The best foundation of the State is Religion; it makes men more peaceable and better subjects. The Quaker and Anabaptist have no foundation. He has greater apprehensions of the Papists than of any others. Superfetations* of Religion are horrible. Has travelled, and (he thanks God) came home a better Protestant than he went. Their wine is the better in *France* by being brought into *England*, but our Gentry worse by going into *France*. The Papists are wholly excluded out of the Question; for they are not quiet and peaceable men, as others are.

* Conceiving after the first young.

Resolved, nem. con. That a Bill be brought in for the Ease of his Majesty's Protestant subjects (that are) Dissenters (in matters of Religion) from the Church of *England*.

[Debate on desiring the concurrence of the Lords to the Petition and Address to be presented to his Majesty.]

Mr *Swynfin*.] If you had voted, upon a single vote, what Laws to be suspended, and what not, you must have gone to the Lords; but now it is involved with other things, you cannot; your Message must have been singly upon the vote. It is a matter in which the Lords cannot agree with you, *viz.* You say you have taken the matter of the Speech into consideration; if the Lords have not, they cannot agree with you. For a single judgment uninvolved, you must go to them, and for an opinion in Law.

Sir *Rich. Temple*.] No precedent that ever we went single to the King in things of this nature without the Lords. You went to the King and offered him reasons for what you could not concur with in his Speech. About relaxation in the Petition of Right, you went to the Lords to join with you in petitioning the King, that the Laws might have their free course. This Address is to the same effect. We never went alone in a public concern of the Kingdom to the King. The matter of your Petition is a judgment in Law. Hopes not for a good success if you go without the Lords. If you take this course, the Lords may justly object, that you declare Law without them; the King may possibly say, he will have the advice of the Lords before he gives an answer, and will think it unreasonable to do it, without consulting the Lords and the Judges.

Mr Attorney *Finch*.] The former going without the Lords, about the Declaration of *Breda*, was no Judgment of Law. Did you ever desire a Proclamation against the Papists, but by both Speakers, hand in hand? Do you think this matter of less consequence? He granted this indulgence to Peers as well as Commons. If they shall differ from you, it lies at their doors, and you have discharged yourselves. Will not you acquaint the Lords in an universal Judgment of Law? The King may deny it because not Parliamentary. To send it to the Lords is
the

the way to make it more easily pass, and it is for your honour to do so.

Sir *William Coventry*.] When you asked liberty of access to the King's person, it was for yourselves, not the Lords. In the Petition of Right there was more need than in this, for that had the force of a Law. We usually go to the Lords when things are in doubt; but may we not by ourselves claim our Laws, and that they may have a free course? Some among the Lords may be distasted with your vote. It may be, the Lords will have Conferences to delay. In all the Debates we have avoided disputes of Prerogative and Liberties; the Committee would not touch reasons for fear of offence. Will you go from your former precedents, and put hazard of Conferences, which will put us upon arguing what we would not argue here, and put ourselves upon that rock we would avoid?

Mr *Milward*.] In your vote you have declared the Law, and now you would avoid the Judgment of the highest Judicature. The Petition of Right is *de jure* to be granted, and therefore the Lords to be consulted. Before the Lords come to Addresses they will consider, and Conferences are natural, and can never be avoided in any transaction with the Lords.

The Question being put that the concurrence of the Lords be desired, &c. it passed in the negative, 125 to 110.

[*Saturday, February 15.*

The Speaker, Sir *Job Charlton*, being much indisposed*, the House adjourned to *Tuesday, February 18*; when the House being met, and the Speaker's indisposition growing still more upon him, that he was not able to attend the service of the House, and having, by letters, desired leave of his Majesty and the House to resign the place of Speaker, and retire into the country, Mr *Edward Seymour*, eldest son of Sir *Edward Seymour*, Bart. being nominated and recommended, by Mr Secretary *Coventry*, as a fit person, both in respect of his ability and experience, as also of his constitution and health of body, for the Speaker; he was accordingly chosen, presented, and approved of by his Majesty.]

* Some insinuated that the Speaker was sick of his post.

Wednesday, February 19.

Debate in a Grand Committee on the vote for granting Ease to his Majesty's Protestant subjects, &c.

Sir *Lancelot Lake.*] *Citing a passage in St. John of these who called themselves Jews and were not,* moves to have the xxxix Articles read, and would have that the test.

Mr *Hale.*] Moves to know what the Gentlemen concerned in the King's Declaration would move you in, for redress of their grievances.

Sir *Thomas Lee.*] Our Debate is from the late vote, who you would have "eased." Would have the Question to "Subscribers to the Articles of the Church of England," and thinks that a good test.

Sir *Nicholas Carew.*] Would have the Church of England as strong as you can against the Church of Rome, Would be loth to ask Toleration of them. Would take in "those that dissent not in matters of Doctrine."

Sir *John Birkenhead.*] The Leveller will not have the Minister have two Livings, nor the Gentleman two Manors, no Emperor, no King. Are such as these the men you would ease? Before you consider what Ease to give them, know from them what they would have, for one thing will not please them all; but says one, Who represents them? By Licences granted since the Declaration you may know who represents them. *And made a large discourse of our Religion settled by Act of Parliament.*

Mr *Garraway.*] We are all beholden to *Birkenhead* for telling us that the Parliament makes Religion, and the Articles, valid. Consider your vote and your Address. Dissenters are many, and not one vote can comprehend them all—Would make your first steps to bring in the better sort, and if you find the door too strait, make it wider to bring it more. Moves, for the least, so many "as will agree to the xxxix Articles, or as many of them as relate to the Doctrine of the Church of England." We have people that would come in—The Papists are under an *anathema*, and cannot come in under pain of Excommunication.

Mr

Mr Secretary *Coventry*.] It is a good motion, made to see what those out of the Church do desire. A man would give something to get something, but would not give something to get nothing. We confess that things of Ceremony are in themselves indifferent, and therefore they keep out, and may have the same arguments with the Papists of salvation in their Church, and not in ours, &c. It is confessed that never any Liturgy was like our Common Prayer. We may suppose that all people here are for the Common Prayer, because said in the House every day. What do we mean by "taking in?" It may be to be Bishops, and bring the Covenant upon their backs. If we take them so in, we leave ourselves out.

Mr *Vaughan*.] If any one asks, Who are these Dissenters Representatives? We are their Representatives, as for other people, and we must judge what is fit for them. Put some test upon them, and then we may know what to be relaxed.

Mr *Crouch*.] "Ease" implies a burden of some weight. Would any Physician advise with a Patient, without knowing what he ails? Would know what it is would satisfy these people, before we proceed any farther.

Sir *William Coventry*.] It is reasonable that you consider them to whom you would "give ease." Did not know that the Levellers, as many others, were religious, before *Birkenhead* called them so. And another sort he mentioned, those who believed Christianity because settled by Act of Parliament, knows not where that sort is. Moves that the persons we shall take care of, may be those that will subscribe to the Doctrine of the Church of *England*, and will take the Oaths of Allegiance and Supremacy.

Sir *Thomas Doleman*.] Would not have it extend to such, as allow a Dispensation for such as take the Oaths of Allegiance and Supremacy.

Sir *William Coventry*.] Does not rise to controvert what *Birkenhead* said, but to rectify an error. Does doubt that it may be apprehended that "such as will take the Oaths of Allegiance and Supremacy" shall be capable of Preferment in the Church of *England*. The test that must be

put upon persons to make them capable of Preferment, must be a farther thing.

Resolved, at the Committee, That Ease shall be given to his Majesty's Protestant subjects that will subscribe to the Doctrine of the Church of England, and take the Oaths of Allegiance and Supremacy.

Sir *Philip Warwick*.] That you may be able to do something, moves that the Convocation may have the business to consider of it.

Sir *Thomas Lee*.] Thinks this "Ease," in order to taking them into the Church, may be "a great Ease to them." By this vote, they may comfortably follow their trades. Ceremonies are necessary for your House, and for the Church, as your cloaths are for your person. Would next have it taken into consideration, what shall make them capable of Preferment in the Church.

Mr *Love**.] What would satisfy them, is a Question no man here can answer, but for once desires leave to personate these people. Hopes that all, that shall reap the fruits of this Bill, will demonstrate their gratitude to the King and this House, by their quiet deportment. He confesses he has no kindness for them that desire so immodest a thing as Preferment in the Church, unless they are conformable to the Laws. Nor do they desire to be exempted from all chargeable Offices, paying of Tythes, to the Poor or Church, one Office excepted, *viz.* that of Church-Warden only, and not without being willing to pay a fine for the contempt. They desire that, after the test, you will permit those that are Preachers to preach, but not without the Magistrate's leave, the doors open and in the public Churches, when no Divine Service is there. (*This latter motion he retracted, being generally decried.*) He said he mentioned "in the Church" because they could not be thought to plot in such a place. This is the sense of most of the Dissenters, and will please them, and, he hopes, this Committee also.

* This Gentleman, who was an Alderman of the City of London, was himself a Dissenter. See p. 42. Note.

Colonel *Strangways*.] Whatever the Parliament shall make to unite, he shall be for it, but never to set up Altar against Altar. One sort of Dissenters you hope to gain, another you never hope. Does value those Churches that have Charity, and damn not all opinions different from them. Would do this business as if he were immediately to answer it to God. If [they were] things commanded, or forbidden, by God, would not alter them. He puts no value upon Ceremonies, which are alterable, according to time and prudence. Would consider what you ordain, that things may be obeyed. We may remember what principles brought the King to the block. Those principles were never grounded upon the Church of *England*. Do what becomes good Christians and moderate men. Would not have these Laws of Ease made perpetual; would see how they behave themselves upon it.

Sir *John Duncombe*.] Hopes this House will well consider what they are about, before they make a Law—This may sway the very Government so as to overbalance it. Will never think it fit that those men should have “Ease,” that, when the Church says, you must suffer or die; and they say you must fight. Invite them to you, but never form them into bodies; lose nothing yourselves. Their principles are not consistent with honest people; let them not set up a Government by themselves, for the Presbyterian will ever be for a Commonwealth. Would have trial of them for a year, by some Law, and no longer.

Sir *Thomas Lee*.] In 35 *Eliz.* there was something of this nature—Would have the Act to be upon revival, not perpetual, but to try them during this war.

Mr Secretary *Coventry*.] Desires that those, that are in the Church, may be clear in the Church. Is for a temporary Toleration. In *Holland* they have no leave for any public Religion but that of *Calvin*. The Law favours none else; the rest are by connivance. Would have the indulgence here temporary.

Mr *Powle*.] To repeal all Laws from Queen *Elizabeth's* time against Dissenters would be very dangerous. Would only have the indulgence temporary. To the end of the
next

next Session of Parliament would have freedom from all penal Laws, ecclesiastical or temporal, and then consider of qualifications for Preferment.

Sir Robert Howard.] No Laws can be suspended, unless named particularly. They bind not else. It will be a strange thing, at one blow, to execute all the Laws since Queen Elizabeth's time.

Col. Birch.] Their argument of things indifferent in Ceremonies we cannot well answer them. Till you have some experience in the thing, would not have one stone taken out of the building. If we must enumerate the Laws in this, why not in every thing else? We may say "any Law, Statute, &c. to the contrary, notwithstanding."

[In the Afternoon Mr Speaker reports, That he had, according to their direction, presented their humble Petition and Address to his Majesty, who was pleased to return this answer, "That it was of importance, and he would take it into his consideration."]

Thursday, February 20.

In a Grand Committee for preparing a Bill for granting Ease to his Majesty's Protestant Dissenting subjects, &c.*

Sir Lionel Jenkins.†] As to receiving the Communion twice a year in the Parish Churches for both lewd persons and sectaries, some persons are of no Religion at all, and may be known by being kept from the Communion till

* Great pains were taken by the Court to divert the Popery Bill. They proposed that some regard might be had to Protestant Dissenters, and that their meetings might be allowed. By this means they hoped to have set them and the Church Party into new heats; for now all were united against Popery. Love, who served for the City of London, and was himself a Dissenter, saw what ill effects any such quarrels might have: So he moved, "That an effectual security might be found against Popery, and that nothing might interpose till that was done. When that was over, then they would try to deserve some favour: But at present, they were willing to lie under

the severity of the Laws, rather than clog a more necessary work with their concerns." So a vote passed to bring in a Bill in favour of the Protestant Dissenters, though there was not time enough, nor unanimity enough, to finish one this Session. But this prudent behaviour of theirs softened the Church Party. Burnet.

† Jenkins was a man of exemplary life and considerably learned: But he was dull and slow. He was suspected of leaning to Popery, though very unjustly. But he was set on every punctilio of the Church of England to superstition, and was a great asserter of the Divine Right of Monarchy, and was for carrying the Prerogative too high. He neither

they

they amend. Humbly moves that, whatever you would do for these persons, you will support the Church; that a new Altar may not be erected for these persons, and that no new Law may erect them any new Churches for public worship.

Sir *William Coventry*.] Offers to consideration what we may do to keep persons in the Church, and to bring in such as are out; for when all is done, the preservation of Religion must be in the Church of *England* established by Law, and we must strengthen that, wherein our main defence does lie, against Popery and Policy. Whereas now the Dissenters have the disadvantage of their labours, for want of Preferment, by coming in they may have the benefit of them. Moves that what has been laid on them, without the Convocations, may be taken off, as those things laid on since the King came in, by Act of Parliament, as Covenant, Assent and Consent, &c.

Mr Secretary *Coventry*.] As for removing the Covenant, if we are to increase our garrison, would not do it with those that have the Plague. It was a brave vote the burning the Covenant, and by dispensing with the renunciation of the Covenant, you may burn your vote with the Covenant. This is a calling in other men in triumph over the Church of *England*.

Mr *Vaughan*.] If the Covenant be a false Oath, there is no need of Renunciation; taking the Oath of Allegiance and Supremacy voids all that. If we say "no man shall or can be, of the Church of *England*, that comes not up to all the strictness of the Ceremonies," it is to make ours as infallible as the Church of *Rome* makes hers.

spoke nor writ well; but being so eminent for the most courtly qualifications, other matters were the more easily dispensed with. All his speeches and arguments against the Exclusion were heard with indignation. *Burnet*.

Sir *Lionel Jenkins* was, at the time of this Debate, Judge of the Admiralty, Judge of the Prerogative Court of *Canterbury*, and Principal of *Jesús College, Oxford*, which last he resigned in 1673, when he was

sent Plenipotentiary to the Treaty of *Cologne*, as he was also to that of *Nimeguen*, in 1678. In 1679, he succeeded Mr *Coventry* in the place of Secretary of State, which he resigned for a valuable consideration in 1684, and died the year after. See *Eng. Brit. In his Article*.

Mr *North* calls him "the most faithful drudge of a Secretary that ever the Court had." *Life of Lord Keeper Guilford*, p. 229.

Mr

Mr Secretary *Coventry*.] You have condemned the Covenant to be burnt, and will you bring it in again? Shall we be more merciful than God is, to bring in men without repenting?

Mr *Garroway*.] The case is altered now; we are providing that the Church of *England* shall not be devoured by the Papist. If we answer not our vote by an Act, wonders not that now we must fence off the thing. Things are not so clear; we are not at the end of the war; let us reconcile persons. Shall we leave the people in confusion? Now we will neither let them out, nor in. Shall we put them out of the nation? It may be, we shall leave few in. Though our medicine may seem empirical, yet, in the danger we are in, we must make use of it. Moves to take off the Oath of Assent and Consent, and the Renunciation of the Covenant.

Mr Secretary *Coventry*.] Will you have them make subscription to what they neither "assent" nor "consent" to? Let one of them be taken in, either "Assent" or "Consent."

Sir *Lionel Jenkins*.] Does not know what the Dissenters mean by taking away the Oath of "Assent and Consent." Who are these contended for? Not the Laymen; their Ministers only. If they conform, they need not subscribe; if not, they need not contend for it.

Sir *John Duncombe*.] If we knew what would ease them, would willingly hear them; we know not what pains them, and therefore not what will ease them. Does to thus much agree, that he would leave the thing as you found it. If we believed that the Covenant was the only clog, would take that away, but would have the Declaration what it is.

Mr *Garroway*.] The Debate is mistaken. Would not let them say what they would have; but this House is to put the thing into a certain fund, that they may have the same security the rest of his Majesty's subjects have.

Sir *Robert Howard*.] Your Debate is, that the Church of *England* shall not be disrobed—This Assent and Consent is no part of the Church of *England*, and you may take

take it away; you have kept the Church entire. The Papist is the stand you make. You take off the penalty from such Acts as you have made; no man comes in without submitting to all the methods other men do. Moves to have "Assent and Consent" suspended.

Sir *William Coventry*.] The "Assent and Consent" is principally applied to Ceremonies, but he is not for leaving the use of the Liturgy.

Sir *Philip Warwick*.] Moves to have the words "other persons" in the renunciation of the Covenant left, and believes most of the Dissenters will not scruple the rest.

Mr *Secr. Coventry*.] Many will say they are not obliged by it, because they have not taken it. Thinks we are not to buy those persons off (that think themselves obliged by the Covenant, that have taken it) at so dear a rate.

Mr *Harwood*.] We are not buying these persons, but you are making an experiment but for twelve months—The Covenant will expire of itself in nine years, in regard it is but temporary.—Would have the Question put.

Sir *Richard Temple*.] He that does come into the Church does materially renounce the Covenant—Men will not make forcible confessions; it is voluntary that is required. Many have said "that by renouncing the Covenant they shall lose their interest with all men." It is a branch not essential to the Church; it is against the nature of a renunciation to be forced. A man would ask forgiveness for an injury done if not forced to it.

Col. *Strangways*.] We argue the thing now, as a civil consideration, among men of true reputation, not to do an unjust thing. These men that have done odious and abominable things—Would have no man come in that does not renounce, with his tongue and heart, this odious Covenant. King's murder, Lands sequestered, and the consequences of it.

Sir *Thomas Osborne*.] Would have as many Dissenters brought in as may be—Does think this most unreasonable, and cannot consent to it; it is both to the King and this House: To the King, because we should seem to encourage the wickedness of those men; to the House, be-
cause

cause of the vote, &c. No man, he thinks, will ever come in, and he would exclude them. It is a great scandal to bring them in by special Act of Parliament. The nation groans under it, and he thinks they would return into rebellion.

Mr *Streete*.] Those that are still fond of the Covenant, supposes you intend them not. He supposes persons will not renounce it for their reputation's sake. This K. *James* calls, in Conference at *Hampton-court*, "a *Scottish* argument." There were then in *England* but forty-nine Dissenters. You will now gratify but a few in dispensing with it. At the *Savoy* Debate they agreed not what they would have; in the time of the war they made use of it as a snare to such as had not taken it. They that are fond of this Idol, let them keep it, but never let it come into the Church.

Sir *William Coventry*.] Thinks that dispensing with the Covenant will strengthen you against such as will not take the Oath of Allegiance and Supremacy, who hold any thing lawful that the Pope commands, but would not press it under the notion of a thing that may be of scandal. They desire to speak and to swear only for themselves, and not for others; therefore would have them accept it to themselves, and not to others.

Mr Secretary *Coventry*.] These persons did take the Oath of Allegiance and Supremacy. In keeping out the Fox from the Flock, shall I let in the Wolf?

Mr *Vaughan*.] This which stands in your Act is a reproach to them that they have been traytors; if it has authority, the Declaration does lessen it already. Desires the distinction only may be removed.

Col. *Birch*.] Rises up, because some persons here were not old enough to see what was done formerly. After he had the honour to come into this house, some intentions were to renew the Covenant. *Cromwell*, *Ireton*, and the rest, would not have it done. He said then, that these men would alter the Government, and the House then would have sent them to the Tower—He never saw such mettle in this house; he had forty notes sent him, "Stick to the Covenant, and you shall die." This was his greatest inducement

inducement to stick to it—Not one of these men could be brought to change the Government. *Love* lost his life for it; the Presbyterian party declared against the King's murder. To the Restoration of the King all agreed. Had he not engaged for the King, by the Covenant, he had prevented himself twenty-one imprisonments he has suffered. When the King was restored, these were the men we only durst trust—He had never gone to the King at *Worcester*, but with sincere intentions. For the Engagement, he cannot find any of that persuasion that took it—It is a harder matter to make a man renounce, repent, and confess publickly, which is so much done in private confession.

Sir Robert Carr.] At the same time that the Covenant was pressed in the House, damnable Heresy was coupled with the Hierarchy—*reflecting on Col. Birch.*

Sir Thomas Lee.] Is loth, as they were then coupled, that now any Protestant should be joined with Popery. But wonders, in all the arguments, that reputation should be “a *Scotch* argument” and not an *English* one. The House was of opinion, when the Act of Uniformity passed, that it was a prejudice to the Kingdom that the renunciation of the Covenant should be perpetual. It is but for a few years to come.

Sir Thomas Osborne.] If there be any one that thinks himself under the obligation of this Covenant, he is no good man. *Mr Calamy* discoursed and pressed the bringing in the King on conditions, when he came to him that commanded next under *Gen. Monk*.

Mr Garroway.] Uses this as a counter-poison, and no otherwise, against those that renounce the Oath of Allegiance and Supremacy. A great many persons are not concerned in the Covenant—A few old Gentlemen. Says nothing of former things, but moves for the present pacification of *England*.

Mr Love.] Did hope to see yesterday some good issue. Some men may possibly think what principles he is of, which he is not ashamed to own and justify. Must give his vote, that such as will renounce the Covenant, as to their own obligation to it, without reference to others, shall

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shall be left out of the exception? But this will amount to little or no general Ease.—Moves for a general indulgence, by way of comprehension.

[To proceed on *Saturday*.]

Friday, February 21.

Debate on Motions* to desire an Answer from the King to the Message.

Col. *Titus*.] By your pressing an Answer, the thing may not be of so great importance as the King and you make it. The Petition of Right was not so pressed. In Lord *Arundel's* case, it was for imprisoning a Member.—Moves for the business of the day, the Supply.

Sir *Thomas Meres*.] Moves not in any heat, but in this calm way would explain himself. He did not say the word “Courtier,” as is alleged, but had he meant *Duncombe*, would have said it barefaced. Does not explain himself out of pusillanimity. Did not now speak of sides, but six days since, it may be he did; but is not, by Orders of the House, to make excuse for it now, neither does he, nor excuses it when said then.

Sir *William Coventry*.] Thinks what is moved now moderate and reasonable; though against the first motion. Should it go in the negative it would be ill resented abroad. This is as modest as can be, but for the former Question, negative or affirmative would have been fatal. If it be but for the heat, a little unnatural to us, would have the Debate adjourned to *Tuesday*; something may possibly fall out in the mean time.

Saturday, February 22.

[Debate.]

Sir *John Hotham*.] Moves for “a desire to his Majesty for a speedy Answer to the last Address of this House.”

Mr. *Palmes*.] Seconds the motion, for some of the Lords of the Council of this House to move his Majesty in it.

Sir *William Coventry*.] It is but a few days since we

* No mention of any such Motions in the Journal this day.

made

made the Address; and his Majesty has taken time to consider of it.

Sir Robert Dillington.] Possibly his Majesty may have forgotten our Address; and desires he may be minded of it, in all humbleness, for a gracious Answer.

Sir John Hotbam.] He thought "a speedy Answer" would be a "gracious" one, and meant no otherwise by the word "speedy," without any intention of unmannerliness.

Sir John Duncombe.] Will you precipitate an Answer from the King? He has not seen such a thing in the House the twelve years we have sat—Why so hasty? No man, in common conversation, is pressed at this rate—Is troubled he must speak against it. Do not let these things interrupt you—Lay these things by; and let the Speaker leave the Chair.

Sir Nicholas Carew.] We sit not again till *Tuesday*, and it is some time for an Answer, Whether Declaration can be a Law, or Parliament-Law, a Law? This is only to enable us to pay our money the more chearfully.

Col. Birch.] The House has declared their opinion of the Declaration—Thinks that this business to-day will not go well without the Message. Dissenters will think, by your Vote the other day, they shall have no benefit of this day. This day will prepare you the better for that motion to the King; therefore would not have it made till after to-day.

Sir Philip Musgrave.] Doubts not of an Answer from the King to our satisfaction—Thinks the Message too quick—Those of the Lords of the Council hearing your desires, will, he supposes, mind the King of an Answer—Is against the Question.

The Speaker.] Remembers no precedent of this nature; but towards the latter end of a Session.

Mr Hopkins.] In the case of Lord *Arundel* the Lords made a much quicker Message than this; and hopes we have the same privilege.

Sir Robert Howard.] The King sees our information; and hopes an Act of Parliament, now towards, will re-

medy all, which is the only proper means and remedy. Consider what cause you have a-new to make another Address to the King—He may possibly hear something of this Debate, and possibly of that something may come, of its own nature, much more than your Address may produce—Moves to wave it: Possibly you may have a good success of your Bill to prevent all fears—Doubts not of a fair success without a Message.

Mr. *Vaughan*.] Stands up in order to the King's service. The slackness of the Money Bill, yesterday, possibly was from the delay of the King's Answer: We have either done too much, or too little, in this business—To contend with the King, during these distractions abroad, if our arguments are not warrantable, will be the destruction of us and the Crown itself—If this be the case, we shall be thought persons rather pragmatical than to have right on our sides—If we do not renew our Address, how can we discharge our trust? If properties be not safe, we shall not know what to give, nor to whom to give.

Sir *John Trevor*.] Since this so much concerns our Allegiance, and the Property of the subject, is moved to speak—Differs from *Vaughan*—The Question is not, whether the Laws and our Liberties are safe, but whether we shall importune the King so unseasonably at this time? Would rain see any Gentleman (which he must say according to his profession) bring a precedent that any Answer has been so suddenly pressed—Has read Petitions and Answers, 2 and 6 Hen. IV.—The King is not obliged to answer but at his own time—Jealousies presently whispered abroad, and would not have such a motion chopped in, but to the business of the day.

Sir *John Mallet*.] We have formerly addressed about the Papists, and disbanding the Army.—The same day the King gave a gracious Answer, and hopes we shall have so of this.

Sir *William Coventry*.] Is against the Question, as thinking it too early; not above three days since you carried the Address; and the Answer may possibly be the same again, if you send so soon.—The Privy Counsellors

fellors of the House will be tender to acquaint the King of your Debates, without your order; but they may, as of themselves, inform the King how time slips away, and prevent the impatience of the House of Commons.

Sir *Thomas Lee*.] Our Laws and Liberties are concerned, and wonders at so great arguing against the thing—What was your Petition? That the Laws might have their free course—In order to a legislative Address, Money and Grievances ever went together—Would be glad of an effect of this Debate, in all the cool manner imaginable; but Money now begins sooner than ordinary; formerly, it was last debated, and last ended! The Motion not to “chopped in” as was said—It is most necessary, considering the fears of the People, their Laws being at stake—*Moves* to have it adjourned to *Tuesday*, if thought too sudden.

Mr *Gartoway*.] It is not so much our fears, as the account we are to give the People—There is no ill intention in the Motion; but with all candour moves to adjourn the Debate.

Sir *Robert Carr*.] It has always been the wisdom of this House to do things with all decency; and if this last Motion did do so, would not be against it—No man can find a precedent, and he would not have the Debate adjourned.

Mr *Harwood*.] Has not heard of this in our forefathers time; but, it seems, we are come here to learn manners—It does not look well—It is confessed; but a few days since, we attended the King; therefore would respite the Debate till *Tuesday*, without a farther Question.

Sir *Thomas Merts*.] Speaks to *Tuesday*—Hopes Gentlemen are convinced how necessary that Vote was—Whatever we ask here of the King, is the right we were born to; no new thing—If this be a new Address, the Declaration is as new; and one new thing begets another. No man can show such a Declaration by any Counsel learned. The Judges soon going out of town to their circuits; now is the time to advise with them, or they will be gone. It is a great while since our Vote; and it is known about the town. It will be two days till we

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shall sit; and we, poor country-fellows, may be rude and unmannerly; but we have as good hearts as the finest of them all; we mean as well as the best of them. If we have too much heat (he means zeal for our Laws) if we contend for nothing else, shall we fall flat without a Question? It may be we shall never have an Answer, because a few plain Country Gentlemen move for it—It will look like a desertion of the thing, not to have a Question for it—If this Declaration be still in force, what signifies your Debate? Your hearts are dead like a rotten oak—How can you make any Law that you have no assurance of the execution of? Should not the Debate be adjourned, the most unhappy thing in the world.

Sir John Duncombe.] If the word “Unmannerliness” has offended, the word “bold Expression” was as much from *Meres*—How can the Gentlemen know, but that some of the Judges are absent, that the King would ask the Question of, or some of his Council that he would trust? In common conversation, would you refuse a man two or three days time consideration? Much less the King—This Adjournment signifies something of indecency—He says it again, if the King has a reason for his delay, doubtless he hears of your impatience. It is not becoming this House—Would have the things that Gentlemen desire, but moderate courses in it—If by *Tuesday* you have not an Answer, consider it then.

Lord St. John.] Would pass this Money Bill as soon as may be, the time of the year coming on—Would, in the mean time, satisfy the minds of men, and is for *Tuesday*.

Mr Secretary Coventry.] *Meres* has used the terms of “side and side” of the House; it is not parliamentary—Both Country Gentlemen and Courtiers have been loyal; both very good and very bad—Desires the Gentleman would leave these reflections—He is as loyal as he or any man; and many have made applications at Court * that have missed their ends; and he that will say, “No Courtier,” may as well say, “No King.”

* Reflecting upon *Meres*.

Sir

Sir *Thomas Lee*.] Is sorry to hear a distinction made from *Coventry*—No man, that he knows, ever made the distinction before him.

Mr *Garraway*.] The word Courtier was not made use of, only “fine man”—Would not have the House hector-ed by any man.

Sir *Thomas Lee*.] There was nothing said of “Gentlemen living about Town”—Country Gentlemen may live about Town—Desires no reflection may be made; and that *Coventry* may explain.

Sir *Robert Carr*.] The words were “fine Gentlemen about the Town”—Never heard more sharpness here than by *Meres*—But let us leave off reflections, and go about the business.

Col. *Samuel Sandys*.] Is not ashamed that he has received the King's bounty—He never begged any thing—He shall serve his Country as chearfully as any man—Moves that these things may be laid aside.

Col. *Titus*.] Whatever becomes of the Debate of the Address, would have this Debate adjourned—Believes that many Courtiers would be Country Gentlemen, and many Country Gentlemen would be Courtiers—Knows that we would not only not be guilty, but not be liable to the suspicion of ill manners—If this was towards the end of a Session, the more reason.

Col. *Strangways*.] Is troubled at the clashing of the House—Would have every man have freedom of speech—Those that have fought for the King may be pardoned in their expressions; though not bred at Inns of Court and Universities, to furnish their expressions with elegances—Hopes the Message is honest; the Judges are sworn to do things indifferently to King, Court, and relative to the Subject—Would ask any Gentleman, Whether he would have the Act of Indemnity voided? which may be, if the King has power of suspending the Laws by his Declaration—The King can do no hurt; those that advise him may do hurt both to King and People—Happiness of both King and Country depends upon one another—Those that crucified our Saviour, and

lay in wait for St. Paul, were zealous men; but zeal must be in a good matter, and hopes our zeal is so for this—Moxes for *Tuesday*.

Mr *Waller*.] Consider the occasion of all this Debate, and your Address, and consider what reputation your brave Vote for Supply gave his Majesty, and that a Debate should put this day by—Put all in the balance—The Declaration is a year old, and pretended to have done much good—Deferring this Debate, is pulling down your walls, the ships. See what is at stake. The State is no stronger than they are that defend it—The King is at an end of his credit, and money, without your aid. Let nothing jostle out this Bill—Avoid this Debate for *Tuesday*.

Mr *Powle*.] All your Supplies will go on heavily without this; and if Laws may be suspended, we have nothing we can call our own—Let any man examine, whether this Declaration has not caused more discontent than has been since the King's happy Restoration—Neither Judge, nor any Counsel of *Westminster Hall*, but is of our minds—Lord *Arundel*'s case puts him in mind of Sir *Dudley Diggs*'s case of imprisonment. If the King pleases to send us a satisfactory Answer, we may go on cheerfully.

Ordered, That this Debate be adjourned to *Tuesday* next.]

Monday, February 24.

The King's Answer to the preceding Petition and Address was delivered to the House by Mr Secretary *Coventry*, and is as follows:

“CHARLES R.

“His Majesty hath received an Address from you, and he hath seriously considered of it, and returneth you this Answer: That he is very much troubled that that Declaration, which he put out for ends so necessary to the quiet of his Kingdom, and especially in that conjuncture, should prove the cause of disquiet in his House of Commons, and give occasion to the questioning of his power in Ecclesiasticks; which he finds not done in the reigns of any of his ancestors. He is sure he never had
thoughts

thoughts of using it otherwise than as it hath been intrusted in him, to the peace and establishment of the Church of England, and the ease of all his subjects in general. Neither doth he pretend to the right of suspending any Laws, wherein the Properties, Rights, or Liberties of any of his subjects are concerned; nor to alter any thing in the established Doctrine or Discipline of the Church of England: But his only design in this was, to take off the penalties the Statutes inflicted upon the Dissenters; and which, he believes, when well considered of, you yourselves would not wish executed, according to the rigour and letter of the Law. Neither hath he done this with any thought of avoiding, or precluding, the advice of his Parliament; and if any Bill shall be offered him, which shall appear more proper to attain the aforesaid ends, and secure the peace of the Church and Kingdom, when tendered in due manner to him, he will show how readily he will concur in all ways that shall appear good for the Kingdom*.

"Given at the Court at Whitehall,

February 24, 1672-3."

[Debate.]

Sir Philip Warwick.] Is very glad that the King's Answer is come in so soon—It answers all your ends; and he would have it recorded, and the King thanked.

Colonel Birch.] The thing, if well looked into, is as much as we can desire, and he would have the King thanked for it.

Sir Thomas Lee.] Would have the Answer considered, it consisting of many branches—Though in one part he would be very ample in our Thanks, yet, in such a general Answer, we contradict our vote of the King's power in ecclesiastical matters—It seems to him that our vote will be of great consequence and weight—Would be loth to make hard inferences from the thing; therefore would have a due Answer, and no sudden vote.

Sir Robert Howard.] We have now a probable cause of our happiness, but no *probabilem causam litigandi*. We have that plainly which we have long hoped for—Appeals to any man whether he had not a diffidence of mind, from

* Mr Secretary Coventry farther acquainted the House, "that his Majesty had ordered the Declara-

tion to be vacated; and that he had seen the seal taken off accordingly."

the time of your Message till now—The Answer, in its own nature, is perfectly kind, as the nature of the Prince it comes from—That power you desire is called for by your Prince—Would have your Thanks ordered without a Question.

Sir Thomas Meres.] To speak on a sudden to this thing is an unreasonable hardship—It seems here is a distinction made in the King's power, in "ecclesiastical" and "temporal" matters. Those of the Long Robe did declare they knew no such difference.—Our Address only mentioned ecclesiastical matters, because it referred to the Declaration—Knows that in the King's Message this is implied; he will not do it in "temporal," but that he may do it; and we say it is not to be done—Would have some time to consider it; and they are the words of the King: If we answer it in haste, it will look rash; if we give general Thanks, being contradictory to our vote, it will look like levity.

Sir Joseph Tredenham.] Thinks this Debate a mistaken one; thinks the jealousy vain; for if the King will dispense with what belongs to himself, we cannot be against it.

Sir William Coventry.] The objection lies in two points; the King says, "He is sorry you should question what never was questioned in the reigns of any of his ancestors."—The King may complain, and it is a misfortune to him that he is sensible, and we ought to be so too—Appeals, if our business be not at an end to-day—If you will have the penal Statutes put in execution, the King tells you what he is willing to do in signing a Bill, and moves you to give the King Thanks.

[The Message was read three times.]

Sir Thomas Meres.] Is satisfied if any man will make out "suspending" in point of Law. In the King's Message he says, "an Act of Parliament may do it more properly;" which implies it may be done by the Declaration.

Mr

Mr Secretary *Coventry*.] The King only says, "He takes the penal Laws off, because he thinks you would do it yourselves."

Col. *Strangways*.] The Message consists of several parts, and they are of great moment—Many things involved in it, and it being a point of great tenderness, moves to have it considered to-morrow morning, and would have the thing weighed as it deserves to be weighed.

Sir *Richard Temple*.] It seems to him fraught with so much condescension as never yet came from a King, and sees no reason to retard the Thanks, especially at such a time as this—The King tells you, "He designed nothing but taking off penalties, not dispensing with Laws, and that if you will pass an Act, he is willing to it;" and therefore now the King has given no occasion to delay your Thanks, an hesitation in this thing will look like an endeavour to take an exception—Moves for Thanks to the King.

Sir *William Coventry*.] Moves not for giving Thanks; that is indecent; it implies that either you must give reasons, and present them, or humbly ask his Majesty's pardon for what we have done—Sees no difficulty on our parts to thank the King for preserving our Properties, and no more.

Mr *Powle*.] The Message does seem to charge us with undutifulness in "questioning the King's power, never done before." It is true, too, the occasion was never given before—Moves to thank the King for preserving our Properties and assurance of them, and "that we will take the matter of his Message into consideration."

Mr *Harwood*.] No man, in decency and good manners, can deny giving Thanks; but the suddenness of the thing would be thought indecent—When he considers the trust reposed in him, cannot agree to a sudden Answer—Agrees with *Coventry*.

Mr *Garroway*.] Is glad we have this gracious Answer, therefore moves for a Committee to pen it, that we may
not

not commit yet a greater error (if it be one) than our vote.

Sir *John Duncombe.*] Could the King say a more kind thing than his Message?—Thinks he desires nothing but Peace—The thing troubles the King, and troubles the whole nation—How could the King keep all things quiet but by suspending these Laws?—Is sorry that any thing should look like a doubt of giving him Thanks.

Mr Attorney *Finch.*] Supposes that no new addition shall subtract what was proposed in the former Question—Would have your address with all gratitude imaginable. It is a mistake that an Answer of Thanks excludes farther grace—Why should we refuse Thanks for this degree his Majesty has given us of Answer, when he might have refused us this gracious Answer, or any farther Answer?

Sir *Thomas Lee.*] Would have the House understand, that the fear is, whether a power is not asserted in our Answer, whether by Priests preaching in *English*, and Mass being said in several places, the Laws are not so suspended as taken off by the Declaration—Agrees for giving the King Thanks, but would be secured that penal Laws cannot be suspended but by Act of Parliament—If he makes too harsh an inference, begs the pardon of the House—It is the greatest Question that ever was in Parliament, and may shut the door to all Addresses for the future—In our Thanks let us not lose our rights and liberties, lest we say, “We thank your Majesty for suspending the Laws.” If this be the consequence, let every man lay his hand on his heart, and say, How shall any penal Laws be made? Or else your vote signifies nothing.

Sir *Lionel Jenkins.*] The King says, “He was under a necessity of dispensing;” and having the power of Peace and War by his Prerogative, he has power of doing things in order thereunto; but “when a Bill shall be preferred,” his Majesty says, “he will pass it;” he therefore conceives Thanks to his Majesty requisite and proper.

Mr

Mr *Vaughan*.] Wonders at *Jenkins's* inference, "that power of Peace and War, is power of repealing Laws;" as much as to say, if power of War, power to determine whether Law or no Law—Would have such Thanks, as we may have no occasion of giving more upon this account—As the Question is proposed, we thank him for the particulars afterwards—If we thank our King so, we condemn ourselves—Would have such an Answer as we may thank him for Preservation of us and himself—Moves for a Committee to consider the Answer and Reasons.

Mr *Garraway*.] Dares put the issue on my Lords the Judges opinions, whether our Address is not according to Law—Desires it may be committed.

Sir *Edward Dering*.] Thinks this Bill of Religion under an ill planet—One day, appointed for it, lost in the King's Answer, and another in our desires for that Answer—Would not have such a Question determined with incogitancy—No Man does think that such a thing, not intended in the Question, ought to be crowded in obliquely—Moves for the Question.

Mr *Waller*.] Whether the word "gracious" shall be applied to the whole Answer, or to part of it, is the Question—The danger to the whole is contradicting our Address—Says the King, "it was never in the time of my ancestors questioned," which is not an assertion of the King's—Is not this a gracious thing? And the word "gracious" may be applied to the whole Answer, for the King not asserting it, is a gracious Answer.

Sir *Thomas Meres*.] In the King's Answer, the Power in Ecclesiastical Matters is plainly asserted—The Message says, "he only designs to take off that Penalty of the Statutes;" if any will say, that so taking off Penalties be not to suspend Laws, what you have voted is not right—If you will thank him for suspending, it is a levity he hopes this House will never be guilty of.

Mr Secretary *Coventry*.] He avers there is no assertion in the Message, nor distinction; it joins both our Liberties and

and ecclesiastical matters—In the words of the Message, the King “never had thoughts of using it otherwise, than for the good of his Subjects;” not to Properties, nor to alter any thing established by Law in Church or State.

Mr Powle.] *Jenkins* said, “there was a necessity of the Declaration”—The violation of our Laws has been necessity—The States of *Normandy* desired the King of *France* not to raise any more taxes but by their consent; his answer was, “he would not do it but upon necessity;” and that necessity has been ever since, and he has raised money without them—Shall we rest in a doubtful and ambiguous Answer, where our Rights and Liberties are concerned? Would have the Answer of Thanks and Complaint go together, and how you can do it without a Committee, a wiser man than he must tell you.

[*Resolved*, That the Thanks of this House be presented to his Majesty, for his gracious Assurances and Promises in his Answer.]

Tuesday, February 25.

Farther Consideration of the King's Message.

Sir *Thomas Meres*.] Moves that the Bill, for giving ease to his Majesty's Protestant dissenting subjects, may be left *sine die*.

[It was adjourned to next day.]

Sir *William Coventry*.] Would have it left still *sine die*, and neither to have preference; and now he is up, speaks to the business of the day—It concerns us to proceed with all duty to his Majesty, for preservation of our Laws and Liberties—Finds, many times, great advantage in having a night betwixt business—Finds no way more expedient for this business, than going into a Grand Committee—Hopes it may be done substantially, and answer all the ends of the House, and heats avoided—We have always referred reasons for things to be prepared by a Committee, and the House to approve of them; and he thinks it now most expedient to your purpose.

Mr

Mr Powle.] Before you refer it to a Committee, would open the exceptions we have to his Majesty's Answer—It is apparent, that those persons that advised his Majesty to this Declaration, still inform him that it is his right—"Not questioned in the reigns of any of his ancestors," will seem to imply, an unquestionable Right without Parliament—3 *James*, Petition of Grievances; some wholly relating to ecclesiastical matters—The jurisdiction of the High Commission Court abused, in pursuance of their citations and excommunications; all ecclesiastical matters—In the next Session, complaint of the Canons of 1 *James*, without consent of Parliament, which were then protested against, and complained of—In the next Session, complaint that the ecclesiastical laws were not put in execution against Non-residents and Recusants—The King then, it seems, has been strangely misinformed of his power in ecclesiastical matters—The Law gives penalties, not by way of profit or revenue, but for punishment of offenders—If the King can remit penalties, always complained of in Parliament, and redressed there, it tends to the overthrow of all things; and hopes this assertion will be waved—Taking the coherence all together, that the King may, for peace, suspend Laws, the pretence of necessity may never be wanting—The saying "a Bill may be more proper," implies suspension to be proper—These things have extremely weighed with him; and doubts not but, upon our informing the King, he will be graciously pleased to satisfy us; else the consequence will be an endless dispute betwixt the King and this House.

Sir *Thomas Lee*.] Hopes that care will be taken, for the future, that there shall be no occasion of this nature—Thinks this business too great for a Committee.

Sir *Thomas Meres*.] Would have the Committee so far impowered, as plainly to show that the power is not in the King—If not so instructed, time will be lost, and new Debates again.

[*Resolved*, That it be referred to a Committee, to consider what Answer to return to his Majesty's last Message, and to make report thereof.]

Wednesday,

Wednesday, February 26.

Mr Powle reports the following Answer agreed by the Committee.

Most Gracious Sovereign,
 "We your Majesty's most humble and loyal Subjects, the Knights, Citizens, and Burgesses, in this present Parliament assembled, do render to your sacred Majesty our most dutiful Thanks, for that, to our unspeakable comfort, your Majesty hath been pleased so often to reiterate unto us those gracious promises and assurances of maintaining the Religion now established, and the Liberties and Properties of your People: And we do not in the least measure doubt, but that your Majesty had the same gracious intentions in giving satisfaction to your Subjects, by your Answer to our late Petition and Address; yet, upon a serious consideration thereof, we find, that the said Answer is not sufficient to clear the apprehensions that may justly remain in the minds of your People, by your Majesty's having claimed a power to suspend penal Statutes, in Matters Ecclesiastical, and which your Majesty does still seem to assert, in the said Answer, to be intrusted in the Crown, and never questioned in the reigns of any of your ancestors;" wherein, we humbly conceive, your Majesty hath been very much misinformed; since no such power was ever claimed, or exercised, by any of your Majesty's Predecessors; and, if it should be admitted, might tend to the interrupting of the free course of the Laws, and altering the Legislative Power, which hath always been acknowledged to reside in your Majesty, and your two Houses of Parliament: We do, therefore, with an unanimous consent, become again most humble Suitors unto your sacred Majesty, that you would be pleased to give us a full and satisfactory Answer to our said Petition and Address; and that your Majesty would take such effectual order, that the proceedings in this matter may not, for the future, be drawn into consequence or example*."

[Debate.]

Mr Attorney Finch,] Riles not up to interrupt the end

* After receiving this Address, the King was induced to make his application to the Lords in Person, which he did in the following terms: "My Lords, You know that at the opening of this Session, I spoke here to your satisfaction; it hath notwithstanding, begotten a greater disquiet in the House of Commons, than I could imagine. I have received an Address from them, which I looked not for, and made them an Answer, that ought to have contented them; but, on the contrary, they have made a reply of such a nature, that I cannot

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of the Address, but some expressions in it do a little shock him—The words, “Majesty very much misinformed;” there must be a qualification—If as an universal proposition, it will go to some consequences that no man would have it tend to, in the gross and universally—But to *Thomas* and *Richard*, in individuals, mistaken, for that will exclude Pardon from the King—The King may pardon an Heretic; would you not have it extend to pardoning particular persons? You intend not, he supposes, “legislative,” as in the two Houses, and the King—Therefore offers a correction—Not to be doubted no Laws can be otherwise, nor bind the People—But the King makes the Law when all is done, *Rex solus, non si solus*—When the supreme Power of *Rome* was in the People, the Magistracy was in the People—Till 3 *Hen. IV.* not one such expression to be found in our Laws, as “Be it enacted, by consent of Lords and Commons;” because *Henry IV.* was King by Authority of Parliament, and came in by the *Lancastrian* Line, and made so by Act—Therefore not to oppose the Question, whether “legislative” the King and Parliament, the exercise whereof the King has, to Laws presented to him by the two Houses.

Mr *Vaughan*.] Knows no difference between “suspending Laws” and “repealing them”—In *Brooke* and *Fitzberbert*, power of dispensing goes with Licence; suspen-

not think fit to proceed any farther for the Declaration, and began in this matter, without your advice. the Debate with rough words. He I have commanded the Chancellor called the Vote of the Commons, to acquaint you with all the transactions, wherein you will find me, and yourselves highly concerned, amazement of every body. He I am sensible of what relates to myself, and I assure you, my Lords, who said, “he must differ from him, I am no less for your Privilege, and Honour of this House.”

This Speech was taken into Consideration on the spot, and both his Majesty and the Duke chose to continue in the House, in expectation of the event. According to *Burnet*, Lord *Clifford* was the Hero

for the Declaration, and began the Debate with rough words. He called the Vote of the Commons, “*Monstrum horrendum, ingens*,” and ran on in a very high strain, to the amazement of every body. He was answered by Lord *Shaftsbury*, who said, “he must differ from him, *totò caelo*,” and in short, submitted his reasons to those of the House of Commons. The King was highly enraged to be thus forsaken by his Chancellor, but on a division, the Court had the majority, and the consequence was an Address of Thanks.

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sion is abrogating Law for time being—As to Mr Attorney's objection against the form, if no man denies the power, why should not we say so? Anciently an answer to a Petition made it a Law, but now we are to assert a Law, which we fear shall be destroyed.

Sir *Thomas Meres*.] Is loth to make any more Addresses, and therefore would have this full.

Sir *John Duncombe*.] The Law is nice in distinction, and a hard matter not to do injury to one side or another—When you say, “the Kings of *England* have no power to suspend Laws,” no Government can be without such a power as this; it cannot else subsist—The inconvenience may be such as may be sooner than we expect; that when it is necessary for your preservation, it cannot be used—Has heard it said above, “that, when enemies are at the gates, money may be raised for our preservation”—This must be allowed, that such a power must be; but now, whether well made use of or no, is the Question—Whether such a power, or not, would not have it resolved by a Question.

Mr *Harwood*.] We are upon a nice point—Knows not the difference when *Thomas* and *William* shall have a Law suspended to him—If a person condemned to death, the King has power to forgive, and the Law is satisfied—All our business is to make it plain; and, if not plain enough, would make it plainer—Thinks no person will advise the King to the contrary—It must be great necessity to bring the King to Dispensation—’Twas judged the King might raise Ship-money, in great necessity; but who must be judge of that necessity, but the Parliament?—Forty days, to call a Parliament, is no such considerable long time to be lost in the interim.

Mr *Garroway*.] Sees something starting of greater consequence than any thing yet—The Attorney's *Rex solus*, if not something more meant by it—If not without the King, we fear it not; if *Roy s'avistra*, we are content—Fears something else lies hidden, by what was said, by *Duncombe*, of power—Knows not how, nor when—Militia we scrupled not, one, two, three, or fourteen days,

days, but when claimed here as a Law and a Power, fears the Address short of what we pretend to, and hopes justly—Let persons then speak plain, and homely, and bare-faced.

Sir *John Duncombe*.] Says it only as an argument *a majori*, as if done in the *Spanish* invasion, in this, as a Gentleman said it before him.

Sir *Thomas Lee*.] Is called up because his words are repeated—He put it thus, where an impossibility, not foreseen; but a legislative power in the King not, therefore, consequential.

Mr *Vaughan*.] The King has power of War and Peace, but no otherwise than by Law—If to raise money, you may go out of your Chair, and we home—The Action of every Parliament is your judgment—No necessity whatever can raise money but by Act of Parliament. (*He reads the Act of Ship-money in Mr Hampden's Case.*) It is not advice as in other Statutes. The extrajudicial opinions of the Judges are against Law, Rights, and Properties—The Petition of Right the same.

Mr *Waller*.] The Ship-money was condemned, because no necessity of raising it, and the Judges no judges of it—The Convention was without the King's Writ, and no Oath given; we excused them, and did *jurare in verba*—Here is something of Prerogative in this; if the King had suspended these Laws, we did excuse it—There was a great army of Dissenters—The Declaration of *Breda* (we did excuse it) dissolved the army—Whether good or bad, the fruit was great—An army of Dissenters, who were for liberty of conscience, yet laid down their arms—If you grant that the King has no Power, you take away what he has, and may do good withall.

Sir *William Coventry*.] Rises not to promote or propagate the Debate, which may be of ill consequence—No need, thank God, of debating this necessity now—A word let slip, and explained by *Lee*, no cause for the argument—The Statute that *Vaughan* read may quiet this point, or what sudden word may drop from a man—All the remedy the notion can produce is an Act of Parliament that is already

full; no man sustains or maintains the point—Let it have no cherishing in this House, and be buried.

Sir *John Trevor*.] There is a distinction between particular dispensation to a person, and a general one (of the King)—The Judges did all agree, that the King might, &c. in the Ship-money case—Is not of opinion of a general dispensation by the King, but would have it considered, the King saying, “it was never in dispute in the reigns of his ancestors.”—Thinks that *Vaughan* knows not the difference betwixt *Thomas* and *William*, and universal dispensation, &c.

Mr *Garroway*.] We were the other day arraigned for “unmannerliness,” and now for “ignorance.”—Would have *Trevor*’s words written down and asserted.

Mr *Vaughan*.] Here are reflections sometimes of “unmannerliness,” and now “ignorance”—(*Trevor was called by many to the Bar.*)

Sir *Thomas Lee*.] To Order!—Seconds *Vaughan*—The Clerk is to write the words.

Mr Attorney *Finch*.] You are rightly informed as to Order—The Gentleman must be heard in his place to explain, and likewise any Member to speak as to the words—In Debates of great consequence, men must not take hold of words, but of matter. (*Called to Order by Lee, “he must not argue till the words be asserted.”*)

The words were these, asserted, and agreed to: “The Gentleman might take *William* or *Thomas*, or *Thomas* or *William*, which he pleased.”

Sir *John Trevor*.] Explains—Is sorry that his discourse should cause the House to be so extremely troubled; he shall not take it ill, if any man shall say so to him. Heintended no reflection, and humbly begs pardon if he gave offence to the worthy Gentleman. (*The thing thus went off.*)

Colonel *Birch*.] Now we are to go on with this, paragraph by paragraph, necessarily, being still asserted, and would so go over it.

Sir *Robert Howard*.] You intend not to huddle up all your rights, and cut off the King’s—Since such Debates arise,

arise, would not circumscribe a Power so due to the King, and would have the thing argued, paragraph by paragraph.

N. B. Some time before the Attorney spoke, new directions were sent the Courtiers from the Lords House.

Mr. *Milward*.] In the case of Simony, the King may pardon by a *non obstante*, but not dispense with it—The case of *Irish* Cattle before the last Act—The King may do any thing legislatively, and would have the thing re-committed, to speak parliamentary language.

Mr Solicitor *North**.] To the word “unanimous,” conceives that the whole House is bound up with the majority out of the House—As to suspension, supposes the King cannot lay the Law dead; but suspension never was a Question before, as to particular persons—It tends to alter the legislative Power in King, Lords, and Commons—Would have the words altered so.

Sir *Thomas Meres*.] It is to be re-committed when the matter of fact is not clear; when you have many exceptions, you go paragraph by paragraph; but when but one or two, what is first excepted against is always first argued—Remember your vote of the penal Laws—Says Serjeant *Maynard*, “dispensing with you cannot put in general, and is positively against your vote,” and gave reasons to the contrary against your vote—Would not stagger again in that vote, having sent it to the King—Would not have one Address with one sense, and another with another.

Mr *Swynfin*.] The legislative power is a tender point—Thinks it as well expressed as possibly can be, and any variation may be of great consequence, one way or other—All forms say, the united authority is from the three States; legislative power by the advice of the Lords and Commons is dangerous advice; it imports legislative advice—To say “the soul is in the head by consent of the

* Afterwards successively Attorney General, Lord Chief Justice of the Common Pleas, and Ld Keeper, and, in 1683, created Lord *Guilford*. We are told by his nephew Mr. *North*, “that he was not an Orator, as commonly understood,

that is, not a Flourisher, but all his speech was fluent, easy, and familiar, and he never used a word for ornament, but for intelligence only.” See his *Life*, p. 332. He died in 1685; and was grandfather to the present Earl of *Guilford*.

heart," would be strange, when it is in the whole and every part—The Law receives authority from the whole authority, because the Question is, where it resides? To say "it is in the King, but not exercised, but by both Houses!"—Exercitial authority very dangerous—After the King's Restoration, the first vote sent from the Lords was, "that the legislative power resides in King, Lords, and Commons"—To put a stop to all former pretensions, would not crumble it into other expressions, but leave it as it is, entire.

Sir Richard Temple.] Proffered several times to speak, and at last called to the Orders for liberty to be heard; to which the Speaker said, It is not in my power to prevail with the House to hear you.

Sir Thomas Osborne.] Is not of *Temple's* mind, that the word "suspension" is useless, because mentioned in the Declaration—Thinks it a good word, and may very well be retained—And the learned Gentleman said so, till *Temple* thought it signified nothing—To the word "unanimous," though in Parliament language it may be so, yet understands it not, that every man was of that opinion. If not, the King may say, "I shall delay my Answer"—He may justly say so—Let us not make a dark thing of it.

Mr Vaughan.] If once you bring the thing into question, you destroy the very being of Parliament. The King cannot ask what has been done here, as *Osborne* alleged, and no man can answer him.

Lord St. John.] Has heard *Howard* often say, "that the vote of the House was his opinion." In 3 *Charles*, when the Remonstrance was against the Duke of *Buckingham*, it was then called "unanimous consent"—Always so, and would have it so now.

Sir William Coventry.] *Knight* has put in a good exception, that such a thing should not come upon your books; for in parliamentary acceptation it is a good word, but not in general construction, therefore would have "full" instead of "unanimous."

Mr Attorney Finch.] Hereafter the word may be expected in Addresses—It may be very ill to tell the King
what

what is "unanimous" and what is not—This may be expected to be measured in your Addresses for the future, and have an Answer accordingly for the future.

Mr *Vaughan*.] When the Question is now before us, and this thrown out, what will the world say? Possibly he might not have been for putting it in; but is not for putting the word "unanimous" out, now it is in.

Sir *Thomas Meres*.] Never saw so "unanimous" an Address as yesterday to the King; not twenty dissenters.

[The word "unanimous," in the last paragraph, was retained, 180 to 77.]

Resolved, That the whole Address be agreed to, as it was brought in by the Committee; and that it be presented to his Majesty.]

Thursday, February 27.

[In a Grand Committee on the Bill of Ease to his Majesty's Protestant dissenting subjects.]

Mr *Powle*.] It was the advice of *St. Paul*, to *bear with those that were weak in faith*—Those that are of the same belief with us desire "Ease," which must relate to burdens. By the Law of *Queen Elizabeth*, no man was punished that did not teach heretical or erroneous opinions. Now before the last Law of *Conventicles*, no Law reached them. Here we have a sort of people that teach nothing but the truth, and knows not why we should deny these people liberty, that have it in all places but where the *Inquisition* is.

Mr *Garroway*.] Would confirm to the Dissenters such houses as are already granted them.

Sir *Adam Browne*.] Every sectary will say he is a Protestant and no Papist—You must take care for the other parties as well as the Presbyterians.

Sir *Thomas Clarges*.] Agrees not to the places already appointed—Would have great caution as well to places as to the religion established—Would have it penned "for such places as shall be appointed by Act of Parliament."

Sir *William Hickman*.] Thinks it not reasonable they

should have their Meeting-houses out of town—The Act being temporary, they will not build houses.

Mr *Swynfin*.] You have great expectations upon you, and you have partly intended them the thing under consideration. If then something must be done, consider, that some think it far greater than it is—The Test for subscription of qualifying persons is as much as was in Queen *Elizabeth's* time—Compare the Church then and now; there were many professed enemies then, all the opposition the Church of *Rome* could make, and other Dissenters—Hopes that this may bring a small number of the Church to be a greater—"Meeting" must import some place, but how to describe the place? Either "left to their own choice," and that possibly may have too great a latitude, and then you cannot find them to have the Test—If "by certificate to the Sessions," then such places as are already allowed by licence; but thinks that gives too much countenance to the Declaration—If the King do it by a Law, 'tis most suitable and strong to the vote.

Sir *Thomas Lee*.] If at this day they meet at any house without Bible, or religious worship, they are not within your Act—These sort of people having a design to do mischief, may meet together, and you cannot punish them—If you find them tumultuous, you need not continue the Bill, but would have the liberty with the largest.

Mr *Crouch*.] The Question is, what place they shall have? *Cambridge*, the place he serves for, desires that they may not be there.

Sir *William Coventry*.] Hoped *Crouch* did move that they might have been in *Cambridge*.—Would have them in the Universities, that they may convert them.

Mr *Crouch*.] They will be disturbed by the youths there with disputing—Would not have them there.

Colonel *Strangways*.] Public places are, in our Religion, for divine worship, that people may find them; and that no disturbance be made, and no ill doctrine preached—Indulgences that were to itinerant Preachers "*per totam Angliam*," those disturbed most.

Voted,

Voted, "In such places only as by this Act shall be appointed."

Mr Hale.] Moves to have it "in such places as shall, from time to time, be appointed by the King."

Sir Charles Harbord.] Would have Licences from the Bishop of the Diocese, and the places free and open.

Mr Powle.] Is against Licences. It may be turned into an office—Would have them in such places as may not be prejudicial to the Peace; and would have them certified to the Quarter-Sessions, that you may know where to find them.

Sir Thomas Lee.] The places are Conventicles still, and in the power of any Justice of the Peace to go to any of these Meetings, to prevent disorder, and to know that they are Protestants, and to require the Subscription—Peoples minds may alter, and would have them subscribe so often as put upon it by the Justices.

Sir William Coventry.] Is against the Justices hunting out these people for the Test—Would have those that have the benefit, take the pains to qualify themselves for this Meeting—The Bishops are not easily found, and it is troublesome to them and the Justices of the Peace; but if the Justices of the Peace find persons that have not their Passport that they have the Test, they may be punished—If you intend favour, suppose a Teacher die, and no Sessions in three months, that place will [then] be without; so would have the two next Justices licence till the next Sessions.—We are not approving these people, but for the safety of the peace; such as agree with us in Doctrine, and the taking the Oaths of Allegiance and Supremacy, secure you, that the Justice has his Test.

Mr Crouch.] If he cannot come time enough to the Quarter-Sessions, the two next Justices of the Peace may do it, relating to the Teachers only.

The Question passed in the Affirmative.

It was proposed "that the Bill continue but for one year, and from thence to the end of the next Session of Parliament."

Sir John Duncombe.] Would have it stop at one year;
F 4 you

you will in that time find inconvenience sufficient both to Church and State.

Sir Charles Harbord.] Will you put them into a snare for a year? Better let it alone totally. Let them fully in, and they will be concerned for their good behaviour, and you may do good with them.

Sir William Coventry.] Would not have them bear offices, nor have the benefit by not bearing offices; but would have them contribute to the charge.

Mr Crouch.] Would not have them Church-wardens that care not for the Church, and would let it fall—Would have them not capable, but fine for it.

Sir William Coventry.] If he does not execute his office as he should, he will fall into the Bishop's hands; and his Courts will handle him sufficiently. It is said "that the Bishops cannot handle them;" but you do not take the penalties off any more than in not coming to the Church, and he will have a Writ *de excom, capiendo*, which is not by this Act voided.

Mr Crouch.] This Writ will cost three pounds to the person that takes it out; and no sooner in the jail but let loose; and no remedy but what is worse than the disease.

Sir Thomas Lee.] The Ecclesiastical Courts in some things have too much power, and in others too little, and the Bishops usually the least—This Bill has no relation to offices; and if you debate this, you must also the regulating the Ecclesiastical power.

Sir John Duncombe.] If you let them in to be Church-wardens, or Overseers of the poor, you will be sure to have all of their opinion well fed, and the rest starved.

Sir Thomas Lee.] One Church-warden is named by the Parson, and the other by the Parish, so you are sure that one will be a Churchman; and as for the Overseers of the poor, chosen by the Parish, and allowed of at the Justices monthly meeting, [there is] seldom any distinction in distributing the money; and if there is, the Justices may remedy it.

Sir Thomas Meres reports the Heads of a Bill for the Ease of Dissenters.

Heads

Heads of the Bill, [abridged from the Journal.]

“ To subscribe to the Articles of the Doctrine of the Church of England : To take the Oaths of Allegiance and Supremacy : “ Assent and Consent” taken away : Pains for meeting taken away : Teachers to subscribe and take the Oaths at Quarter-Sessions : Before two Justices of the Peace, out of Sessions, to teach till next Sessions, doors open : To continue for a year, and from thence to the end of the next Session of Parliament.”

Debate.

Sir *Philip Musgrave.*] Would have the Articles specified.

Sir *Thomas Meres.*] The Articles were those of the Convocation in Queen *Elizabeth's* time, 1562.

Sir *John Birkenhead.*] Would have those Articles, that are already mentioned in the Law.

Agreed to by the Committee.

Sir *Thomas Meres.*] The Quakers and Papists may fine for not bearing offices.

Sir *Nicholas Carew.*] Thinks this regular—Would ease the Protestant subjects—Would have the Protestant subjects eased, and would lay it upon others.

Mr Attorney *Finch.*] Oblige all Incumbents in any Livings to catechise once a week—It has been thought, in ill times, set up in opposition to preaching, which then kept many off, for giving distaste—At the same time, there may be a paraphrastical discourse of catechising—The King taking notice of the confirming youth not well informed—And, in time, you will be put to seek out your Assentors—It will be the greatest ornament you can give your Bill.

Sir *John Duncombe.*] Would have order taken, at the same time, about the schools, that children should be taught well, and well principled, under a penalty.

Mr *Garroway.*] By the people you now indulge, you will never have catechising taught by them—But would have this clause to quicken those of the Church of England.

Ordered,]

74. *Debates in Parliament in 1672.*

[Ordered, That a Bill be brought in, to oblige every Incumbent to cathechise and instruct the youth of his parish, every Sunday afternoon.]

Friday, February 28.

A Petition of *Henry Robinson* was offered, for saving houses from fire, at a rate.

Colonel *Birch*.] Would have it read; for, as unlikely a project as it is, gunpowder and printing were as improbable things—Always learned something, though from the ignorance of the person.

Mr *Crouch*.] If we had believed such things as the *Indies*, we might have been masters of them (for the Discoverer * first offered himself to us) as well as the *Spaniards*—Would have it committed with the Bill [*touching the blowing up, or pulling down houses, to prevent the increase of fire*] which was done.

The Speaker hastily quitted the Chair, as was urged by divers, without a Question, and Mr. Attorney took the Chair, for the Committee of the whole House on the Bill of Supply.

After several Motions, the Speaker resumed the Chair, which he had several checks for leaving. Then

Mr *Sacheverell*.] Moves for removing all Popish Recusants out of military office or command.

Sir *Thomas Lee*.] Complained of divers who were got into command lately.

Sir *Robert Carr*.] Neither *Lee*, nor any man else, knows that any considerable Papists are in arms—If one Papist be qualified with forty or fifty Protestants, there is no danger—If any more be, they are likely to go beyond sea, and not trouble you here.

Mr *Vaughan*.] Drums beat about the streets; [there are] many *Irish* Popish officers; and in the coffee-houses they say “some of us are to be hanged, when the Parliament rises”—When these men are once raised, we shall not know how to get

* *Columbus to Henry VII.*

them suppressed—Therefore moves for a vote for an Address to the King, for removing them.

Sir Thomas Osborne.] The King was pleased to have the Commissions searched, and there were not sixteen, before these new forces were raised—He considered not their religion, but that they were soldiers and good officers—The King knew them to be good officers, but not Catholics—You will not, he hopes, expect that those of the fleet (so considerable) should be excluded the service.

*Earl of Ogle.**] He must chuse some *Roman Catholics*, or he cannot raise the King a good regiment—He must do them this justice, that many of them have been killed, and lost their estates, for the King's service—He has but two officers Papists in his whole regiment, and one was put upon him—It does not become us to think of so great danger of Popery.

Sir Robert Howard.] What you are to do now, is to appoint some Members to draw a Bill, to exempt them from this trust—He is no great affecter of their religion, but would not have the swords of gallant men taken from them.

Mr Garroway.] Has no man in particular to charge. Yet common fame makes them lavish, in saying, they are only able to serve the King—Is sorry to have it said here, that we have no persons capable of service, but Papists—The greater is the danger of them—We have many young Gentlemen, Protestants, who may learn, and in time be put in employment—The King, in his speech, has formerly thought them incapable; and therefore he does. As for facilitating the King's business, which gave this day's interruption, when the people shall see we have not forgot them in their fears of Popery, the money will be given with the better will, and their spirits quieted.

Earl of Ogle.] Says he is Lieutenant of *Northumberland*, which County is divided betwixt Papists and such as

* Son of the famous Marquess and Duke of *Newcastle*, whom he succeeded in those titles in 1676, and died without issue male in 1691.

have

have fought against the King—He is the son of a father that has fought for him, and so are they also; therefore it cannot be thought amiss to employ them.

Colonel *Strangways*.] Is sorry that those of the Church of *England* are dead, and those alive that have not served the King—Many that have served the King cannot get employment—Would have Lord *Ogle* carry those abroad that have diserved the King—Let us do that which becomes prudent men—He has a kindness for their persons, but would not have power in their hands to do mischief—But will nothing satisfy them but to be in competition with you?—Would have none of that.

Mr *Powle*.] Would distinguish between old and new Converts—Putting them in employment looks like a reward of their apostacy—Lord *Ogle* said, “he had but two, and one put upon him”—He is sorry they have such interest—Another said, “there were not above fifteen or sixteen”—All agree, that amongst the new-raised men, there are many—It may be said, many have served the King—Desires not the rigour of execution of the Laws; but when such have arms in their hands, knows not but they may make use of them to establish their own power.

Mr *Harbord*.] Unless you do something more than a vote, you will be under the same power the Presbyterians were in the long Parliament, awed by the Independents, who had arms in their hands—Would have a Law for it—There was great rejoicing at *Rome*, by the Cardinal Protector of the *English*, for the King’s murder: And to those they durst speak their minds to, they said, “they could not prevail upon him for his religion”—Now in this he takes the liberty rather to displease his King than undo him. (*The words gave offence.*) He explains himself upon the Declaration, that it would undo the King and the Subject.

Sir *Thomas Meres*.] The words gave no offence; every man ought to say so, if he be persuaded in his heart (*for what is not of faith, is sin*) that it will undo the King.

Sir *John Duncombe*.] Takes things of this nature with

as much humanity, as he would have other men do of him—*Harbord* knows he has great respect for him—But though the King gives us freedom of speech, yet he never heard the like before here.

Sir Thomas Osborne.] Hopes the words were not as he apprehends them, but would have them asserted.

Colonel Strangways.] Thinks the words may be justified, and no hurt in them, take them in the true meaning.

Mr Attorney Finch.] The reason of Law why we have liberty of speech, is, that whatever ill is said of us without doors, we may be censured here only for it—Supposes the Gentleman does sufficiently correct himself for what he has said.

Mr Garroway.] Desires, for the sake of your Member, that the words may be asserted, that the things may not be reported without doors which were not said within.

Sir John Duncombe.] A man would be troubled for the very approaches of offending this House—It would grieve him to the soul to do it.

Mr Harbord.] Explains—Not at all satisfied with the Declaration; he intended no reflection on the King, and would submit to all the severity in the world rather than be thought such a one.

Sir Thomas Meres.] Could have wished the thing had been better worded, but the sense was good. *So it passed over.*

Debate resumed.

Sir Thomas Lee.] If the word “popish” be without “suspected,” you have not one “convicted recusant” in England.

Colonel Birch.] Men will be more able to pay the tax, by the clause of corn, more willing, by recalling the Declaration, and out of fear for the future, by this vote of Popery. Ireland for fifty years, in Queen Elizabeth's time, had no rebellion in it, and good trade; but when the Papists once got into office there cheek-by-jowl with the Protestants, then they rebelled.—If you put not a stop to this, all will be ineffectual—When he considers at the first

first Reformation in *Henry VIII's* time, how few we were, and what a swing it had when once got in fashion,—let men apply it—A great many that took the Oaths of Allegiance and Supremacy rebelled—What has been done may be done—Would have the King and you assured in the business, and that is all he aims at.

[*Sir John Duncombe.*] The servant that had so much forgiven him, and took his fellow servant by the throat for a small debt, such people must be looked to. Let men carry humanity about them when they run so into religion. Men that have been locked up in their own walls (as the *Romish* Fryars) know not how to use their tongues in company, and some are indiscreet through zeal; for zeal and love never were discreet.

Resolved, That all persons who shall refuse to take the Oaths of Allegiance and Supremacy, and to receive the Sacrament according to the Rites of the Church of *England*, shall be incapable of all public employments, military or civil.

[*March 1, omitted.*]

Monday, March 3.

Mr *Powle* reports, from the Committee, the following Address, for preventing the Growth of Popery, to be presented to his Majesty:

“We your Majesty’s most loyal subjects, the Commons in this present Parliament assembled, being very sensible of the great dangers and mischiefs that may arise within this your Majesty’s realm by the increase of Popish Recusants amongst us, and considering the great resort of Priests and Jesuits into this kingdom, who daily endeavour to seduce your Majesty’s subjects from their Religion and Allegiance, and how much your loyal subjects are disheartened to see such Popish Recusants advanced into employments of great trust and profit, and especially into military commands over the forces, now in your Majesty’s service; and having a tender regard to the preservation of your Majesty’s person, and the peace and tranquillity of this kingdom, do, in all humility, desire, that your Majesty would be pleased to issue out your Royal Proclamation, to command all Priests and Jesuits, (other than such as, not being natural born subjects to your Majesty, are obliged to attend upon your Royal Consort the Queen) to depart within thirty days, out of this your Majesty’s kingdom, and that

if

if any Priest or Jesuit shall happen to be taken in *England*, after the expiration of the said time, that the laws be put in due execution against them; and that your Majesty would please, in the said Proclamation, to command all Judges, Justices of the Peace, Mayors, Bailiffs, and other Officers, to put the said laws in execution accordingly: That your Majesty would likewise be pleased, that the Lord Chancellor of *England* shall, on or before the 25th day of *March* instant, issue out commissions of *Dedimus potestatem*, to the Judge Advocate, and Commissaries of the musters, and such other persons as he shall think fit, (not being officers commanding soldiers) to tender the Oaths of Allegiance and Supremacy, to all * officers and soldiers now in your Majesty's service and pay; and that such as refuse the said Oaths may be immediately disbanded, and not allowed or continued in any pay † or pension, and that the Chancellor shall require due returns to be made thereof, within some convenient time after the issuing out of the said commissions: That the Commissaries of the musters be commanded and enjoined by your Majesty's warrant, upon the penalty of losing their places, not to permit any officer to be mustered, in the service and pay of his Majesty, untill he shall have taken the Oaths of Allegiance and Supremacy, and received the Sacrament of the Lord's Supper, according to the laws and usage of the Church of *England*; and that every soldier serving at land, shall take the said Oaths before his first muster, and receive the Sacrament in such manner before his second muster. And this we present, in all dutifulness, to your Majesty's princely wisdom and consideration, as the best means for the satisfying and composing the minds of your loyal subjects; humbly desiring your Majesty graciously to accept of this our Petition, as proceeding from hearts and affections entirely devoted to your Majesty's service, and to give it your Royal approbation."

Colonel Sandys.] The King has called several of these officers, whom you will make incapable by your Bill, from beyond sea; they lost their fortunes there for their allegiance in returning hither, upon the King's command to return.

Sir Robert Howard.] He believes that Sir John Harman will not receive the Sacrament—Would not have so considerable a man discouraged—We have few such.

* The Lords were for inserting [land] before officers, but it was rejected by the Commons.

† The Lords were for leaving out these words; the Commons retained them, 141 to 102.

Sir William Lowther.] *Harman* is a good Churchman—He sits by him every *Sunday*.

Sir William Coventry.] When he had the honour of employment under the Duke of *York*, he gave *Harman* the Oaths.

Sir John Bennet.] What will you do when men are pressed, and they refuse the Oaths and the Sacrament? Will you dismiss them?

Sir William Coventry.] Thinks that the Oaths and the Sacrament are not practicable for the seamen; not that your men are afraid of their flesh, but they will refuse them, *Colliers* and *Merchants* pay being better.

Mr Attorney Finch.] A Catholic that makes no conscience of your Oaths will make none of your Sacrament. The Oaths are the most cogent testimony. If you mean to impose the Sacrament, you will cut off so many hands from your service.

Sir John Duncombe.] Does not like to expose holy things in this manner; your ships are to be supplied by landmen; though they have taken it at land, they will refuse it at sea, to avoid the service. Many are not prepared, and will you force him to swallow it down to damn himself? If the Oath of Allegiance will not do, think of something else rather.

Sir Thomas Clarges.] Soldiers are not surprized, as is said—In the rule of musters near forty days before they can be removed; then no great surprize in the case—Remembers in 1638, a great army then, three times enough to beat the *Scots*; but the late King durst not trust the common soldiers, their jealousies were such of their Popish officers.

Sir Robert Howard.] They will go to the Sacrament, as to eat and drink. Now when a Test comes, it will wound your Protestant subjects—Impossible to fill your land companies without Fanatics—Leave out the Test for your own safety—They are convertible terms, and convertible interests.

Mr Vaughan.] In all Statutes that have been made, in King *James's* time, after the Powder Plot, the Sacrament

is made part of the Test—The kingdom, in one thing, is very unfortunate, that the other day we could have none but Popish officers, and to day none but Fanatic soldiers—We are, in the mean time, like to be safe, especially in alliance and conjunction with the *French King's* fleet, who are Papists—Would not have them by sea, any more than by land; would have as good security by sea, as by land; would have neither Popish soldiers nor officers.

Colonel *Titus*.] The Sacrament is an unuseful Test—They that hold your Church, no Church, hold your Sacrament, no Sacrament—The Sacrament is not a thing to be ordered to take, and no matter whether they understand it or no.

Mr Secretary *Corventry*.] If you make Papists incapable of dangerous places, you will increase them—If Papists may be Merchants, and not Soldiers, they will increase more—It is not prudent to make your plaister wider than your sore.

Sir *Thomas Meres*.] If Laws were put in execution, Papists would not be so great as they are—It is said, “What power will catch them, because of Dispensations, and (our being) discouraged to give them any Test?” as in many passages in the mystery of Jesuitism—Let us do like good and religious men; and if they can abide any Test, all mankind will laugh at them, and they themselves and their Religion will grow ridiculous upon it.

Colonel *Birch*.] Wonders at so great a change betwixt now and a few years ago—As for damning, the same Church says, they must prepare themselves—If they serve at sea, they have two months time.

Sir *Thomas Meres*.] An *English* Priest, an apostate from your religion, is not granted in the articles of marriage [*between the King and the Infanta Qu. Catherine*—Dr *Gauden* was an *English* Priest—Names him to berid of him.

Lord *Cornbury*.] The man is the Queen's Priest, and has been so ever since the Queen came into *England*.

Colonel *Strangways*.] No Ambassador can bring an *English* Catholic Priest into *England*; it is against the Law

of nations. If he brings in a Priest, that Priest is a traitor by Law. Having the *English* tongue, they have more opportunities than ordinary.

Mr *Vaughan*.] Articles of marriage cannot be against Law. It is *præmunire* to harbour them.

Mr *Garroway*.] Would not have the man named in this Address : It will make delay—The Address must be re-committed, if you name him—Would have the man left out—If they be not gone already, by this Address you may be rid of them all.

[The Address being agreed to ; *Resolved*, That the Lords concurrence be desired.]

Tuesday, March 4.

In a Grand Committee on the Supply. Debate on prolonging the day appointed for it.

Mr Secretary *Coventry*.] Here is a fear of the King, a fear of the Lords, and a fear of ourselves. We are in a most miserable condition. This may have great influence abroad.

Mr *Vaughan*.] We have been as yet but Petitioners, and have had no effectual answer to our Message—The Bill of Supply may have quick dispatch enough—The people expect an account from us of this great affair of religion, and we cannot answer the delay of it to them.

Mr *Garroway*.] Every body is for carrying on this Bill, and yet it cannot find the way to go—Be pleased to remember how quickly the money was given—You are desired to stay but a little while for an answer from the King ; that we may not have an ill construction abroad, and have the thing pass quietly ; and you gain nothing by pressing it.

Sir *Thomas Lee*.] The people would have so hard thoughts of us, as may prove prejudicial to the government. If we make such haste, and if we had found things as we left them last Session, this Money-Bill might have passed sooner.

Sir *Robert Howard*.] Does believe that those accommodations

tions of things we desire, will come in good time—We shall either have satisfaction, or not; and every man knows the condition of things; war, delay, and other things—Doubts not but every man thinks it sinking or swimming, and if not supplied in time, the nation must be put upon strange leagues and new intentions. But let it have the course that may come easily, and put it for *Saturday*.

Colonel *Birch*.] If we intend that all must go together, it is visible we cannot have an answer before *Saturday*—We have a quick way to dispatch the money, and we know it—Would have things go upon equal terms.

Sir *Thomas Osborne*.] Thinks that giving of money would be a stop to the growth of Popery—A necessary ingredient, to defend yourselves from it, is by a fleet—If the fleet fall short, it will be at our doors.

Sir *Thomas Meres*.] Sees no answer to our fears of Popery and Property opposed to the *Dutch* fleet—Would fain know where that *Amsterdam* money is, so talked of—We only humbly petition that the Law may have its course. It is a very easy Petition—He has no jealousy either of the King or of the Lords, but is jealous of himself—No man knows his own heart—We are not always present to ourselves, nor present here—At last, it is but passing it, after reporting it, and there is an end of your business—We must not lose kindness in other matters.

[To proceed on *Saturday*.]

Wednesday, March 5.

The Bill to prevent the Growth of Popery was read the first time.

[Debate.]

Mr Attorney *Finch*.] No consideration is had in this, of offices for lives or inheritances, which are not to be forfeited by the heir, unless he be convicted—In Annuities or Pensions not reasonable—This was the first severity in Parliament to take away Pensions, whereby people must eat—This command to the Attorney General not to enter

ter a *noli prosequi* will put a man to the charge of a noble in a *non prof.* to that of twenty pounds for a pardon from the King—Hopes you will make a temperament to these things at the commitment.

Mr *Milward.*] Can name some Catholics that have Pensions for life: The three *Pendrils*, brothers, who were so happily instrumental in preserving the King after *Worcester* Fight.

Sir *Courtney Poole.*] Would have all persons exempted, named in the Bill.

Lord *Cornbury.*] Speaks for some of the Queen's servants.

Mr. Secretary *Coventry.*] "Pensions" are unnatural things to put into the Bill; forbid all Pensions, and you had as good knock people on the head; as good starve them. You make the King less capable than any other man to be charitable. He that saved *Dublin* castle was a Papist—A *Turk*, or a *Moor*, that does service, you would reward. These Pensions are not under the Great Seal; but to say those who have saved the King's life shall not be rewarded, is most unreasonable—The Lord Chamberlain above-stairs has given all the oaths to the servants; he is a person no way suspected.

Mr *Vaughan.*] The end of your Bill is to take offices of trust, which will imply power: The giving of Pensions from the Crown is out of its revenue; you give the money, and the Crown cannot support it—Would have the Pensions of mere charity, no way relative to trust.

Sir *Robert Carr.*] For want of a Member to speak for a Pensioner here, by name, to lose his Pension is unreasonable.

Mr *Powle.*] It takes not away the power of persons from executing their offices of inheritance by Deputy—Would always have a perpetual mark of honour upon persons truly deserving, and would have them named in the Bill for their honour. It was not the intention, in the former Session, that persons then cashiered for Papists, should have Pensions. Statute of *Henry VIII.* mentions persons

persons not worthy of Pensions who own not the government—Many deserving persons, Protestants, are ready to starve. It is reasonable that the Queen's *Portugal* servants should be considered. (*This consideration was likewise committed to be considered.*)

Col. *Sandys.*] Moves that every man may name his friend—Thinks the number will not be considerable.

Sir *Robert Howard.*] Hopes you will not think the King no proper judge of a little reward; your business here is trust and security of the nation—Hopes the Bill will come easy to the King, to pass the better, with no unnecessary strictness in it.

Sir *Thomas Meres.*] The word "Pension" is not in the Bill—Thinks these are mistakes made to throw dirt on the Bill. With all submission to those that drew the Bill, says, the House always improves and mends it—Thinks there are but few that will pass muster here—People now turn for preferment.

The Speaker.] If you will give *Meres* privilege to be disorderly, he has done—He must leave reflections.

Sir *Thomas Meres, goes on and says.*] It is dirt thrown upon the Bill when words are said to be in the Bill that are not ("Pensions.")

Mr Secretary *Coventry.*] Intends to throw no dirt on the Bill, nor would have dirt thrown upon him—"Salary" and "Pension" are both payments, and the same thing. Will you have no debts paid to Catholics?—Thinks "Payment" is more than "Pension"—Would have the order kept, that Gentlemen may speak without reprimand or reflection.

Mr *Garroway.*] Thinks that strange, for soldiers "Pay" is no "Pension;" it is their due, and that is a "Payment"—Would not trifle away time upon such things.

Sir *Gilbert Talbot.*] Dirt is thrown somewhere else than on the Bill. It is said, "a great many did turn upon design of preferment"—*Abruptly—went not on.*

[The Bill was ordered to be read a second time.]

Thursday, March 6.

[A present Conference having been desired by the Lords, and agreed to by the House, on the matter of the Address sent from this House on the 4th instant, to prevent the growth of Popery,]

Mr Attorney General reports the Conference.

[Debate on the Lords amendments. On that of inserting "land" before "officers."]

Mr *Garroway*.] If it be thought more safe to have them at sea than at land, does not else see what the word "at sea" means. If they will only abjure the doctrine of Transubstantiation, let it be the test at sea and land.

Sir *Nicholas Carew*.] If they may command our ships, they may command us also—Would have that Test spoken of, of the Sacrament, waved, and have only the doctrine of Transubstantiation the Test.

Mr Attorney *Finch*.] Would not lose the fruits of so hopeful an Address with amendments—Little suspicion of Catholic officers, but great danger of losing good officers not Catholics—Believes that this amendment of your Address offered by the Lords is with no intention to favour the Catholics at sea, therefore would not insist upon it, but agree.

Sir *Thomas Osborne*.] There are but two Captains *Roman* Catholics in the whole fleet, and they young Gentlemen and no notice taken of them. When you say "officers," would distinguish—Masters, Boatswains, and Gunners, are of great use, and the humour of being fanatic most upon them; therefore would distinguish and confine it only to Captains, only to such as command the ship and become dangerous.

Mr *Vaughan*.] You join with a Catholic Prince, and, without the Oath, you may betray the whole kingdom.

Mr *Hopkins*.] Transubstantiation is a Test that no Papist will endure, but any Protestant will; therefore would have that the Test.

Mr *Cheney*.] Would have you particularly name such persons as you would except in this Address.

Sir

Sir *Thomas Clarges.*] Hopes that you will not put a brand upon people—Would have no mention of the Sacrament in this Address—Would leave that out.

Mr *Powle.*] Fears that all the remedy we shall have by this amendment is, that “land soldiers” may be “sea captains”—Would have that trust at sea left in doubtful and suspicious terms.

Mr Attorney *Finch.*] In the universality of the extent, it will comprehend the sea-foldier in point of the Sacrament for a Test; the Lords, he is of opinion, would have left out the Sacrament, but that the reverend Prelates could not stand by and agree—You had better rely upon your Bill, than press the Sacrament in this Address.

[The amendment was rejected.]

[On the amendment of leaving out the word “Pension.”]

Mr Secretary *Coventry.*] Wonders how this word “Pension” was dark in the Bill, and clear in the Address.

Colonel *Birch.*] By “Pension” they have money for doing nothing—The same reason for saving as giving money—There will be, by Pensions, an army ready of re-formado-officers—If they be so good officers as has been said, they cannot want employment abroad.

Sir *Nicholas Carew.*] What commands they left, supposes, were in *Holland*—They may be commanded by the King’s friends beyond sea, and not starve—Agrees not with the amendment of the Lords.

Sir *John Duncombe.*] Is ever for a good-natured motion in this House—Let them live easily by you, to prevent conspiring—He is sure that you will not suffer these men to starve.

Mr Solicitor *North.*] It is enough to take their arms and pay from them; therefore would agree to the word “Pension.”

Sir *Thomas Meres.*] It is asked “how they shall live?” Where they lived before, and hopes the thing may be accommodated with some words.

Sir *Robert Howard.*] It is said “that much of the King’s revenue may be saved by these “Pensions”—Hopes no

man will think the King too lavish in his rewards—There is no Question of the King's doing what is good for him and the nation.

Mr *Garroway*.] Would be one that should give money to them towards commands abroad, rather than they should want employment, being gallant men—Most of the Gentlemen being strangers (*Irishmen*) may give occasion for other Debates—Would not have “Pensions” given them, and they stay here—Not worthy for them to do so, nor safe for us.

Mr Attorney *Finch*.] If you do not agree with the Lords, you must dispute upon a theme against “Pensions,” hard to maintain!—It may be, the King may give the Pension in trust to some Protestant friend for him—Would have no cruel thing urged at the Conference.

Sir *Thomas Lee*.] The King has been more bountiful than any of his ancestors, therefore no wonder he wants money—These are persons not to come near the Court by Law—Two thirds of their estates forfeited—If this be the case, how consonant will this be to your Laws? It would never grieve him to allow a “Pension” in trust, if the Parliament give it not.

Mr Secretary *Coventry*.] Every man that has had an employment abroad is not sure of it again, when a man has laid out all his little fortune—Would not have all officers have “Pensions;” but you, by not agreeing, bind the King's hands, that, when persons grow aged, they should be forbid “Pensions,” and the King disabled to give them.

Colonel *Birch*.] If he could express himself at once as well as *Coventry*, would not stand up twice—The Question is now, “Whether such a “Pension” as may create jealousy”—It is such a thing as does, and would have none.

Colonel *Strangways*.] Is not backward to reward such persons as have served the King; but jealousy is the case you speak of, in your Address—Divers of these persons have been entertained, when Protestant officers were in want—Old Cavaliers, no “Pensions” for them—Would know

know upon what account these men were invited hither, and by whom, we having sufficient at hand? We know, where Princes disband officers, they keep them at half pay, to use them upon occasion, and so may these—Therefore moves that we should not agree with the Lords.

[The amendment was rejected, 141 to 102.]

Friday, March 7.

[The Bill for giving Ease to Dissenters was read the second Time.]
[Debate.]

Sir *Philip Warwick.*] Would not have *ecclesia in ecclesiâ, imperium in imperio*—Moves, that there may be a Test upon persons to sit in this House, that the Church may not be destroyed.

Colonel *Strangways.*] Moves, that no persons may be capable of sitting in this House that are not conformable to the Church of *England*, and will not take the Oath of Allegiance and Supremacy, and receive the Sacrament.

Colonel *Birch.*] Knows not that, these seven years, he has been absent from the Confession in the Church—But the taking away the outworks of the Church does not so weaken, as is said, when they are too large to be maintained—You are resorting now to the ancient Test in Queen *Elizabeth's* time; signing the Articles then made men capable of preferment; so that you are doing nothing now, but what was then thought enough, and had good success then without these outworks. The main fort was then tenable against the Church of *Rome*, and other Dissenters; but now they must not be augmented; it is the way to ruin the Church—They are not, in many places, suffered to preach in an afternoon, tho' conformable; and yet they tell us, Churches are ruined and going down—He knows not what we should do with the Churches, if they are not preached in—In parishes that he knows, [there are] twenty thousand parishioners, some above seven miles long, and no preaching in the Chapels—Would have them at liberty to preach in any decayed Church or Chapel, that the Church of *England-men*
and

and they may be acquainted with one another, in order to union.

Colonel *Titus*.] Was always of opinion, that some such thing as is before you was fit to be done—If they are not at ease, they will be dangerous—Would not have the Bill clogged with Provisoës—Much difference between dispensing with some laws to them, and making them law-makers—Would have no friends to laws be abrogaters of them—Is for no man's sitting here, who is not of the Church of *England*.

Sir *Thomas Lee*.] The thing looks improper—The Bill continuing but to the end of next Session of Parliament, it will make the Bill *Felo de se*.

Sir *William Coventry*.] Do we settle the Church of *England* for the present, and leave the reversion to other persons? When the Bill is let fall, then it is likely that the multipliers of Electors will chuse a stranger for them.

Sir *Thomas Meres*.] Thinks that, as the case stands, the Sacrament is the main Test to a Member elected.

Mr Attorney *Finch*.] Thinks it a proper motion—It is but establishing orders of Parliament by Act of Parliament—The Sacrament is very rarely connived at, but for the sake of some very worthy eminent person.

[The Bill was ordered to be committed, and the Debate adjourned to *Monday* next.]

Reasons reported by Mr *Powle*, to be presented at a Conference [with the Lords] upon their amendments to the Address to the King, to prevent the growth of Popery.

“The command of ships as great trust as that of land forces, and therefore great assurance from the persons requisite; they may else deliver up the ships, as well as the land trust. 3 *James*, Recusants were disabled for sea as well as land: Now we have far more reasons, our navy being more considerable; and they that will not take the Test by land may go to sea, where there is no Test, and do more mischief. “Pensions” are under the Great Seal; therefore would not have them for Papists on Record. It is now dangerous to continue them about the Court, where, by Law, they ought not to be. Great expence of treasure, by Pensions, now they cannot be employed; and discouragement to Protestant Soldiers.”

[After

[After a Conference, the Lords sent word, "That they agreed to the Address;" which was presented to his Majesty by both Houses, in the afternoon.]

The King's Answer to the Address. [Erased in the printed Journal.]

"My Lords and Gentlemen,

"I do heartily concur to the matter of the Address, and in putting the Laws against Popery in execution; but suppose your meaning is not, that they should extend to the foreign forces now in my service, but, to the rest, shall be done as you desire."

Saturday, March 8.

The King's Answer to the second Address concerning the Declaration, spoken by him in the House of Lords.

"My Lords and Gentlemen,

"Yesterday you presented me an Address, as the best means for [the] satisfying and composing the minds of my subjects; to which I freely and readily agreed, and shall take care to see it performed accordingly. I hope, on the other side, you Gentlemen of the House of Commons will do your part. For I must put you in mind, it is near five weeks since I demanded a Supply; and what you voted unanimously [upon it] did both give life to my affairs at home, and disheartened my enemies abroad. But the seeming delay it hath met with since, hath made them take new courage; and they are now preparing, for this next summer, a greater fleet (as they say) than ever they had yet: So that if the Supply be not speedily dispatched, it will be altogether ineffectual; and the safety, honour, and interest of *England* must of necessity be exposed. Pray lay this to heart, and let not the fears and jealousies of some draw an inevitable ruin upon us all.

"My Lords and Gentlemen,

"If there be any scruple remain yet with you, concerning the suspension of penal Laws, I here faithfully promise you, that what hath been done in that particular, shall not for the future be drawn into consequence or example. And as I daily expect from you a Bill for my Supply, so I assure you, I shall as willingly receive, and pass, any other you shall offer me, that may tend to the giving you satisfaction in all your just grievances."

[Debate.]

Sir *Nicholas Carew*.] Moves for the Lords and we to go

go in a body to the King to give him thanks; all scruples being now taken away by his full and gracious Answer.

Mr *Powle*.] Though it happened, that, in some late Answers, there has been some mixture and alloy, yet in this, it is as full as may be—Though last night he had some scruples as to “foreign forces,” yet now all is so clear, that he moves for thanks to the King, in as full a manner as may be.

Mr *Vaughan*.] *Pauper est numerare pecus*—His joy is so great as not to be expressed—Moves for thanks to the King in as ample a manner as may be.

[*Resolved, Nem. con.* “That the humble and hearty thanks of this House be returned to his Majesty, for his gracious, full, and satisfactory Answer;” which being presented, by both Houses, in the afternoon, his Majesty was pleased to return this Answer:

“My Lords and Gentlemen,

“I hope there will never be any more difference amongst us. I assure you, there never shall be any occasion on my part.”]

Monday, March 10.

[Debate, whether an instruction should be given to the Committee on the Bill for Ease of Dissenters, to provide therein, that Dissenters should be incapable of sitting in the House.]

Mr *Garroway*.] If the House of Commons must be only garbled, he is against the Test for elections, unless it extends to the Lords House. It is as much the birth-right of the Commons to sit here, as the Lords in the Lords House.

Sir *John Duncombe*.] He is much afraid of this Bill—All our Properties are concerned in it, as well as our Religion—It is their birth-right, but they ought to be bound by your Laws—If you set up the Sectaries with Churches, you leave your own unsupported—As long as people preach to please their congregation, they must preach mercenarily and seditiously—Remember what the Constitution of the kingdom is—He fears its ruin—Gentlemen do know how they are threatened already, by these Dissenters—At the same time you give them Ease,
do

do not deliver up your Church—Atheism will overcome all ; your families will taste of this—Did never expect this day in this House—Keep out Dissenters from this House, and do it how you please.

Mr *Swynfin*.] The subject of *Duncombe's* discourse is, to make Dissenters incapable of sitting in Parliament—This Bill stands like no other Bill he remembers—You have committed your Bill, but say, your Committee shall not sit—'Tis clearly better to lay the Bill aside, than do it with dissatisfaction ; though it should pass by a few voices, yet it may be of ill consequence abroad.

Sir *John Duncombe*.] “ Whether a Test, or no Test, for a Member,” was the thing he moved.

Sir *Charles Harbord*.] Never was Bill of so short a continuance as this ; and a perpetual Test upon a temporary Bill, never knew it before.

Lord *St. John*.] The King had found good effect by the Declaration, and we hope we shall find good by this Bill—The Bill will cause people to pay their money chearfully, and he would not have it clogged with Provisos.

Mr Secretary *Coventry*.] Whilst you are giving liberty to several religions, will you confound the Government ? Will not you be exact in this House, the fountain, when you are clearing the streams ? We are intrusted with the safety of the State, and we are to give no liberty to endanger it—Now you keep them out of the Church, never let them have power to make Laws—Though the Bill be temporary, yet provisos have been grafted upon such Bills ; you may revoke it, if inconvenient, when you please.

Mr *Powle*.] The proper Question is, “ Whether a Test in this Bill or no”—You intend this Bill as an Ease : Will you do them a favour, and at the same time a disgrace ? Ill to be mixed together ; usually two contrary things destroy the whole—You may annex it to the Popery-Bill—Is fully for the thing, but in this Bill it will destroy the whole.

Mr *Hale*.] It is doubtless very useful, but knows not why in this Bill—Here we cannot better express our duty

duty to the King, than in coming as near to the Declaration as we can, and no mention of this there—Almost half your time is spent in Elections—This will remedy much of that disorder.

Sir *John Bramstone*.] This Bill will prove a mark of distinction upon people, and bring few into the Church—Instead of bringing men into the Church, you will pull them out by it.

Colonel *Titus*.] You are debating a thing, before we know whether we are to do it or no.

Sir *William Coventry*.] “It is irregular to put a Question upon the matter,” says *Birkenhead*; and offers an opinion the better to put a Clause in a temporary Bill—A Gardener would be of opinion to graft a stock like to last, than what may probably die in a year—As a spectator, he observed, in the late Usurpation, that, by narrowing their party, and garbling the Parliament with Oaths and Tests, they lessened themselves, and made many parties, friends—As the Church now stands, to strengthen it, get friends, and have few enemies—When a Test is proposed, he is for it, and will never presume it extravagant—Such a Test as will be for black-haired men or white, there is danger of. The danger may be of forty or fifty men here; but if thousands have right to be here, if elected, whom will you discontent? Such a stomach it may raise, by restraint of sitting here, as in the man confined to *Paris*, though never out of it in his life—They will say, “the Church of *England* hinders them,” and will hate the Church for it—It is proper to come in the Bill for Dissenters purely Protestant—If Papists will take the oaths, and abandon their principles, making nothing of the Sacrament, and that nothing bar them from sitting here; shall not Protestants sit here on the same terms? Therefore, it is not reasonable to come within this Bill; but if you please, appoint a Committee what Test may be for the Parliament sitting, and let this Bill go to commitment.

Sir *Robert Carr*.] The Clause of Corn in the Money-Bill as unnatural, as this Clause in this Bill—But a year or a half grafted—All the reasons urged here are not
heard

heard without doors—Thinks it so far from clogging this Bill, that it will be for its advantage.

Colonel *Birch*.] Could hardly believe, till now, that this Bill was in earnest; the great argument in it was to enable people to follow their callings, and quiet their minds, and to be safe from Popery—Admit you shall agree, that no person can be capable, &c. unless conformable; but what will you make this conformity? He has never met with fix that are so—Subscription once made a man conformable—You could never yet bring the Bill of Popery to pass, but hopes this Bill will—Moves to have the Question single, whether the Test shall be affixed to this Bill.

Mr *Milward*.] The Question is, “Dissenters from the Church of *England*”—What to be conformable is, several Statutes declare—He is for granting them Ease to enjoy their consciences—He repines not at it; but there is great difference betwixt Ease and Preferment; but to capacitate them to set aside the Church of *England* so burdensome to them, thinks it not safe.

Mr *Vaughan*.] Had not the King stuck more to this House than the Papists in the House of Lords, the Declaration had never been stopped. Was this an Ease, to brand all Dissenters in the forehead with a letter?—Thinks this does not tear the Church in pieces, as is said—Hopes this Bill will unite us, that we may be all friends—This Clause is proper for the Bill of Elections.

Mr Attorney *Finch*.] No man can speak to the matter, for no man knows how it will come from the Committee—Looks upon this Bill of Ease as a pious thing, to reconcile, and not to establish separation: We lose time all this while in the Question—Would not have the Dissenters part of the legislative power, till they be of one body with us in doctrine and discipline—Where is the difference of having them in one part of the roll or another chapter, as anciently Laws were? Will it stop any Bill? It is reason and justice that must pass it, and not this or that Bill—Put the Question, and let it take its fortune.

Sir *Thomas Lee*.] The word “Dissenter” is large; but
appoint

appoint a Test and you will have one ready—It looks to him as if you thought the Church of *England* so mean that you should have none but Dissenters—Thinks the Bill is rather to show how small their numbers are—When they may preach without hazard, their labour will be less, and their pay accordingly, by this putting them out of hazard—Thinks you will not have a negative in a Bill of itself, and moves for it.

Mr Solicitor *North.*] When people would destroy a thing, they begin first to divert it: The design of the Bill is to indulge Dissenters, and to enlarge the Church. It is wisdom to preserve our strength, that they may never hope to weaken us in Corporation-Elections, where that party is strongest.

Sir *Edward Dering.*] Uses to speak his mind freely, and therefore hopes to be heard favourably—He is not clear as to the Bill itself, but doubts not of the fitness of such a Clause. The most speedy way is to commit the Bill without this Clause, and make it a Bill by itself.

Sir *Thomas Meres.*] Is for the thing, but not for the Question with this Bill.

Sir *Philip Warwick.*] Protests, in the presence of God, that if you will make these people a Church of *England* that are but a part, he is against it—Hopes you will not abuse the Church of *England* and its doctrine, that you have so lately thanked the King for maintaining.

Colonel *Strangways.*] The more he considers of it, he finds that those Gentlemen who were for the Declaration, are against this, and *à contra*—Therefore moves for a Bill.

Sir *Thomas Osborne.*] They, without this Clause, may be capable to give you indulgence, as you may now give them—Would have it look like a thing given by us, and not wrested from us.

[The Question being put, That such an instruction be given to the Committee, it passed in the Negative, 163 to 107.]

Resolved, That a distinct Bill be brought in on the subject-matter of this Debate.]

[*March 11 omitted.*]

Wednesday,

Wednesday, March 12.

[The ingrossed Bill to prevent the growth of Popery, was read the third time.]

Mr *Harwood*.] Tenders a Proviso “for renouncing the doctrine of Transubstantiation, for a farther Test to persons bearing office.”

Mr Secretary *Coventry*.] After Consubstantiation, now Transubstantiation. Will you not have God there? Will you exclude him?

Sir *John Birkenhead*.] In Queen *Mary*’s time, persons were never put to swear it. Though there are distinctions of *realiter, et verè, et corporaliter*, would not have a scholastical oath—We say God is there, and the difference is *de modo*—Great charge on the Synod of *Dort*, who would impose swearing controversial points—As the words are now penned, people are put to swear they know not what; and for the dangerousness thereof, would lay it aside.

Mr *Harwood*.] Has discoursed this point with able men. Doubts not, but they must make more of the bread and wine in the Sacrament, than bread and wine; what by Faith is one thing, and this tends no farther.

Colonel *Titus*.] Thinks the thing of dangerous consequence—If this Proviso is to make a Test, you have your end. They hold, that, after Consecration, the elements are turned into the body and blood of *Jesus Christ*; but we hold, that, after Consecration, nothing remains but bread and wine; and he would have the Proviso no more.

Sir *Thomas Higgins*.] If you intend it as a Test, no Papist, after taking the Oaths of Allegiance and Supremacy, but will swallow this. Why do not you put renouncing all the rest of the *Romish* points?

Sir *William Coventry*.] *Higgins* says, “the Test is unnecessary, because evaded.” Has studied Controversy little—If he errs in the matter, asks pardon—Thinks a farther Test requisite. The Sacrament they will take, and the Oath of Allegiance, but not that of Supremacy; certain

Bulls forbidding them, and the Pope may dispense with his own Bulls. This doctrine of Transubstantiation is part of their Faith, and the Pope cannot dispense with it; therefore there is need of a farther Test, and this the Pope cannot take away—It would be ill resented abroad to refuse a better and farther Test than the Oath of Allegiance and Supremacy; and he would have this received.

Mr *Vaughan*.] The Church of England holds, that our Saviour spoke the words, *This is my Body*, figuratively—No remembrance but of things absent—The Church of Rome says, we hold *Christ* is mystically there; they, that *Christ* is as much present then, as when crucified. Cannot but hold, that *Christ* was but once crucified—[*He reads the passage in the Common Prayer Book, of no corporal presence.*]

Sir *Thomas Clarges*.] Is afraid of this Proviso—Swearing doctrinal points will give offence to the *Lutherans*—The Papists say, *Christ* is really there after Consecration; and therefore adoration. The *Lutherans* believe Transubstantiation, but only at the instant when delivered, and communicated—You are told, “It is matter of Faith, and the Pope cannot dispense.” If the Pope can dispense with one thing, he may do it with another. He never heard the Oath of Supremacy dispensed with—In the troops, some few years since here, few soldiers would take the Oaths of Supremacy; they would rather lose their places—In the late times there was an Oath like this Test, which many that now go to Mass would take.

Mr. Solicitor *North*.] Would have no swearing—He was for the Covenant Test, as a seditious thing; but as this is no way tending to it, but only as to doctrinal points, is against such an Oath.

Mr. *Waller*.] The word, “*merely* bread and wine,” in the Proviso, he excepts against—Believes the doctrine of the Sacraments well expressed in the thirty-nine Articles—The thing is of great consequence, and no Clergy here present; we believe the very body, and therefore the word “*merely*” is not reconcilable—Would have the subscription

scription in the very words of the Articles, which will take off the objection of swearing scholastically.

Sir Robert Holt.] Pope Pius V offered a dispensation to the Emperor Maximilian, as well as to Queen Elizabeth; you are to renounce all the Articles of the Council of Trent, as well as this—Thinks the thing secure enough by the Oaths of Allegiance and Supremacy, but if you will go farther, would have the Bishops consulted with.

Earl of Ancram.] The Lutherans opinion, as Clarges said, is not Transubstantiation; the Papists say, one body goeth, and another cometh in the place—Consubstantiation, which the Lutherans hold; is grammatically “with it,” and not “changed into it.”

Sir Richard Temple.] If we so scruple the wording it here, it will be much more [scrupled] in the nation—In Henry VIIIth's time, the five Articles were to be subscribed, under the penalty of treason—Knows not that the Pope ever gave indulgence for taking the Oath of Supremacy, but believes he grants absolution after the thing is done—Besides this Test, would make subscribing the thirty-six Articles, but pray leave these Oaths of Abjuration in matters so mystical.

Sir Eliab Harvey.] Observes one thing in this Ease—We have been told, we have no Test upon the Papists; if there be none for the Papists, this is none for the Protestants, in the Bill of Ease.

Sir John Duncombe.] Fears it will have this effect, that some will let Religion and all go, if preferment lies in the way, and so it will make men Atheists.

Sir John Birkenhead.] Did ever any Church impose swearing doctrinal points?—No Church, either Greek or Latin, ever did it; never was such an Oath before.

Colonel Strangways.] Though great disputes are between us and the Papists, yet all Protestants hold against it—If once we deny our senses, we lose our senses; for every new shift of the Pope, would have another shift from us—You are now making distinction betwixt Protestant and Papist—A criterion you must have; the Pope will never dispense with doctrinal points; with human Laws

of the Church he can—Thinks that this Test will puzzle all Priests and Jesuits.

[The Bill with the Amendments passed; the title was, “An Act for preventing dangers that may happen by Popish Recusants.”]

Thursday, March 13.

Some Amendments and Provisos to the Bill for giving Ease to Protestant Dissenters, reported by Mr. *Powle*.

In the Preamble, the Committee added, “Whereas the said Statutes cannot be suspended but by Act of Parliament.”

Mr Attorney *Finch*.] The Preamble does but explain the subsequent matter—The sense of the House is included in your vote, and therefore the Preamble useless—Why in the Preamble we should put persons upon declaring the faith, that all of your communion do assent to all the doctrines, knows not—Would have it altered to, “Whereas divers persons are Dissenters.”

Sir *Thomas Meres*.] Professes much for the Church of England, but if we were all of a bottom, we should be much better—The Church was very well in 1642; and would revive it to the state it was then in; and the Clause is for taking away the subscription of the Covenant.

Mr Secretary *Coventry*.] You have no leave to bring in any thing to repeal a Law already made, without leave asked.

Sir *Robert Carr*.] Wonders you will entertain a thing burnt by the common Hangman—This will not ruin your Church; but, by the use formerly made of it, you may be in rebellion, and would never enlarge the Church by pulling down the pale of Government.

Sir *Thomas Lee*.] The business of the Bill is matter of Ease; and this Proviso reaching to nothing but your Bill, you may receive it—The Bill is a Repeal in point of Law, and this Clause is regularly brought in.

Sir *William Coventry*.] Speaks to the order of the thing only—It has been well said, that the whole Bill is repealing a Law, and so it was left at large to the Committee

to repeal—Why may not this Clause be now brought in? Can the Committee of the whole House have power of debating this Proviso, and not the House? Otherwise, instead of making the Committee subservient to the House, you make the House subservient to the Committee—Again, consider the point urged by the Speaker—Do you apprehend that the House refers any thing to the Committee of the whole House, exclusive to its own power?—Though he subscribes much to the Speaker's knowledge, as to the Orders of the House, yet in this he differs from him.

Mr Secretary *Coventry*.] At the same time the Proviso is put, would have the Covenant read, that we may know what the Covenant is that we leave out.

Sir *Robert Carr*.] Seconds it, and has the Covenant ready in his hand.

Sir *William Coventry*.] It might as well have been said, when you repealed the Act concerning Madder, That was a breach of order as well as this; the natures are not different at all.

Mr Attorney *Finch*.] This Proviso repeals the first chapter of *Magna Charta*; the first Article of the Covenant does it—Now you are coming to release all the Corporations from their oaths, to indulge these Gentlemen. This will give them a reputation abroad. These proceedings will give honour to the Covenant—But consider the Honour of this House; how often you have burnt it, and how many thousands are perjured by it.

Sir *Charles Harbord*.] Had he taken the Covenant, he would have been very tender; the not taking it has cost him some thousand pounds; there are many good things in it.

Sir *Adam Browne*.] They showed no conscience in taking it, and as little in keeping it—Wonders to hear it so countenanced here.

Debate about the reading the Covenant.

Sir *Thomas Lee*.] Would not have it read, for fear he should learn ill by it, having heard so much of it.

Colonel *Strangways*.] Agrees with Gentlemen here, for the

the desert of the Covenant to be burnt by the common Hangman—The Declaration gave indulgence to all these persons—In all rebellions, when you come to a pacification, you do not reproach people—When the King came into *England*, how many true sons of the Church had we! We had them only in private Conventicles. They were all quiet, before this Declaration stirred them up—When you said, “penal Laws could not be suspended but by Act of Parliament,” what would have become of them, if the Act of Indemnity had been voided?—You have greater Dissenters than these, the Papists—*Rebus sic stantibus*, this is a necessary Proviso, and should be part of the Bill.

Sir *Thomas Meres*.] Prudence, but nothing of his love to the Covenant, made him bring this Proviso in; the best service we can do is utterly to damn this thing, that no remembrance or sentiment of it may remain—Union is his end in it, and could say much how unreasonable this is to impose upon men—Hopes for a good effect of it—It is point of prudence we differ in; and did he not think it prudential, would never move it.

Mr *Powle*.] Thinks it not prudent to keep the subscription of renouncing the obligation of the Covenant within this Bill—Supposes that no man would give occasion to a minister to come into the Church, without studying this obligation of the Covenant, as no conscientious man will come in without doing it; It is but a few years, and the Test in the Act of Uniformity will be expired; not above eight or nine years in being; it is a very small circuit—We take not away marks of disgrace upon it; it remains upon the body of your Laws as before—Therefore now to unite against the common enemy is very reasonable.

Mr Secretary *Coventry*.] It looks unreasonable to have a Law one way, and a Law another way—As for the Gentleman that would have the Church as in 1642, he is not for that, because it may come to the condition of 1643—*(Then he reads the Clause in the Covenant against Prelacy.)* Can this House forget their own honour? This is not
for

for the common men, it is for their Ministers. Will you take in men to govern the Church, that have sworn the destruction of it? Doctor *Burges* took the Oath of Allegiance and Supremacy, and yet took the Covenant. Will you deliver up your state and blood that our ancestors have lost their lives for? If I countenance another man's sin, I make it my own—Shall the Parliament actually give away their own reputation but to colour other men's? You do the most dangerous thing to admit this, to gratify a few men, that ever was in Parliament.

Sir Robert Howard.] It is not a prudent part to do a great thing with small consideration—They that were best pleased with the King, when they were worst pleased with others, show no great mark of kindness to him; but speaks it without reflection on any—This is letting people come in, upon a bare supposition they will come in; though you alter Laws, it is only for peace and trade—In this you will not know whom you gratify, and as you do it to some, you grieve many more.

Sir Thomas Littleton.] The way the Proviso runs seems harsh—You were told that the number of years was almost expired, and now, if you will determine it, to shorten the time, and no more, is for it; but there was no Test altered in the time of the late King, nor would have any now—Moves it, to the intent that the Gentlemen may have their minds softened in the business, for the present, reserving what he has farther to say till the next reading.

Sir William Coventry.] Thinks it a weak thing in any man to refuse this renunciation—And now only the state of the business is, Whether in prudence we should not bear with the follies of these men; though they were much the cause of the deluge of our miseries, yet they were the earliest repenters—Though their folly is above their honour in renouncing the obligation of the Covenant, yet, for union sake, as the case stands, would approve of those steps that may hit your end—Would amend it, to make it more decent for your purpose—Hopes that Gentlemen will not find fault with what he proposes

to mend it—Would have words to this effect, “ That renouncing the obligation to the Covenant being now in the Act of Uniformity for a few years to come, may be left out.” The continuing it in will perpetuate the memory of what you would have forgotten—This may prevent persons studying this obligation for the future.

Mr *Cheney*.] Doubts not but we have persons amongst us sufficient to be employed in the Ministry, without the helps either of the Papists or Dissenters—Moves that the Proviso may not be part of the Bill—The Universities are sufficient to fill your Church, without their helps.

Mr Attorney *Finch*.] By this Proviso, instead of burying the Covenant, you are setting up a pillar of honour to it, by making it considered; and all this to gain some few, and your Church at ease without them, and you must part with the cross and the surplice; and when they have gained this point of you, they may gain ten more, and will be never contented—Is it either convenient or prudent? You deliver up yourselves to them, to save yourselves from a foreign nation.

Mr *Vaughan*.] We would take in persons capable of reconciliation with the Church; the Papists never are.

Mr Secretary *Coventry*.] Is as true a Churchman as any, though not so good and pious—Should he be a parishioner to one of these men, he could never receive the blood of his Saviour from his hands, that, by holding the Covenant obligatory, was guilty of his Sovereign's blood: To bring twenty in, to throw a thousand out, by the scandal; Gentlemen, that could not endure the Covenant, and might not be permitted the Common Prayer in their houses—By the severity of these men, they made way for the Secular Priests—Is it a great thing to ask a Minister, to renounce a traiterous oath, a villainous oath? Shame is to be nourished, when repentance is the result of it—Is the Church of *England* going to scramble for its government, that the Papist or Covenanters may get it? It will be like an army, that has lost its General, that falls to plunder and disorder.

Sir *Thomas Lee*.] It has been said, “ Shall not a person
renounce

renounce being a rogue? "Possibly they will be as willing to renounce that infamy, as you to have them—A person at the door (whom he knew not) asked him, "What do you about the Covenant?" Says he, "that point in it, of him, or any other, being obliged by it, did startle him to renounce, altho' he had never taken it; and yet, upon this Test, he must be obliged to study the Controversy, and to satisfy his conscience," it being an universal proposition—These Covenanters have paid so dear for it, that they will not think it much reputation to own it—Now, if such persons there are, they cannot be meant by our Debate.

Mr *Swynfin*.] When a Proviso is in paper, if any amendment be offered to a Proviso, by orders, the alteration is very fair to be offered; especially when the alteration is as now, it will shorten the Debate, viz. reducing the Church to the Test of 1639—In an ingrossed Proviso in parchment, very different.

Sir *William Coventry*.] If any man would chuse a point to express himself upon rhetorically, he has much advantage that speaks against the Covenant; none but fools indeed would scruple the renouncing—The last Question shows, you have an inclination to do something—Though we all abhor the Covenant, yet moves to commit the Proviso to be amended.

Sir *Thomas Meres*.] His opinion in this thing is for unity—Whatever others think, it matters not; what we agree is best—If you will have words as ill as may be for the Covenant, is for it, and to graft what words you will upon the Proviso—Every ingenuous man ought to like truth, wherever he finds it—But would have this Proviso to strengthen us against the common enemy, the Papist—Knows that they will agree against the common enemy—No age can take care but for it self.

Sir *Philip Warwick*.] Proffers this Proviso, "Provided that the renunciation of the detestable Oath, called the solemn League and Covenant, shall not from henceforth be renounced but by such as have taken it, nor by them, but for themselves, and no others."

Sir

Sir Thomas Littleton.] You must prove that a man has taken the Covenant, and the Parson must prove he has not taken it; the first is hard to do; the second, a negative, not to be done—It is a Proviso of great consequence, and should have a formal commitment.

Sir William Coventry.] Had rather give them all encouragement to come in, but if not, some—Let us not keep them from the knowledge of their repentance—It is twenty years ago since the Covenant was imposed, and now out of date—Would have a few words to collect our senses—It may be easily rectified.

Colonel Birch.] Were ever men so instrumental to bring in the King, as these half dozen, or half a score men, talked of?—Repentance they showed sufficiently for what they had done, by some losing their lives, and many hazarding their lives, for the King's Restoration—Consider whether this be a time to put a new brand upon these people, after the Act of Oblivion, and their services considered—Whilst you have done these things, the nation has been poor, mean, and decayed—It is according to the Declaration at *Breda*, and he would have no more Tests put upon them than in 1639.

Mr Secretary Coventry.] *Birch's* argument is, "It is only for the sake of these nine men," and these nine men are dead; have lost their lives—You must repeal your Law for these nine men—Would have the rest obey you.

Colonel Birch.] These men lost their lives when the engagement came to destroy the Covenant—He can tell nine, or nine score more of them, if he pleases.

Mr Swayne.] Could he see that one person would be in ease by this Proviso, would consent to it.

The Proviso passed to this effect:

"Provided always, That the renunciation of the detestable Oath, commonly called, The solemn League and Covenant, be offered to none but such who have taken it, and that such subscribe for themselves, and not others, any thing in the Act of Uniformity, or any other Act to the contrary."

[*March 14*, omitted.]

Satur

Saturday, March 15.

Sir *John Holland*.] Moves in Mr *Jay*'s case, Member for *Norwich*, taken in execution, and imprisoned for a debt of the King's.

The Speaker.] If a Member is taken in execution, you may discharge him—But the Law provides, that as a Member shall be discharged from imprisonment, so he, after his Privilege ceases, shall be as before the execution, without prejudice to the party—Statute of King *James*.

Mr Attorney *Finch*.] Before that Law, it was breach of Privilege; but if let out by Privilege, a Question whether he might be taken again upon the same execution?—If it be in the King's case, the King will show as much favour to the Privilege of this House as possible.

Sir *Thomas Lee*.] Would have the case committed, that you may be informed how Privilege stands, in case of the King's suit.

Sir *John Birkenhead*.] Would not have it referred—
14 *Elizabeth, Fitzberbert*'s case; all the famous Lawyers were then in the House; he had Privilege in execution of three thousand five hundred pounds, at the King's suit—Judged then no Privilege against the Crown, for all Privilege comes from the Crown—Mr *Harman*'s case, and Sir *John Prettyman*'s case.

Mr *Powle*.] Is as much against extending Privilege, and encroaching upon Royal Prerogative, as any man—Would have both stated—Privilege is never denied a Member but for treason, felony, or breach of the peace; but where a civil action is prosecuted, there is as much Privilege, he conceives, against the King, as against any other person—It was never the Question in *Fitzberbert*'s case, "whether it was at the King's suit, or any other man's;" but the case was, the person was taken in execution before the sitting of the Parliament.

Earl of *Ancram*.] In Sir *Edward Turner*, the Speaker's time, at the suit of Sir *Edmund Sawyer*, his tenants were served

served with declarations, and he complained against him, though the thing was compromised.

Says the Speaker, "The King by one writ calls a Member to *Westminster-Hall*, and by another to Parliament," though in the King's case, it was judged breach of Privilege. (*The thing was no farther proceeded in.*)

Debate on ingrossing the Bill for the Supply.

Mr Secretary *Coventry*.] Hears that the *Dutch* call in their privateers, and will be speedily out—Remember *Chatham* business—Whenever the King neglects execution of the Laws, he fails of his duty; and when you neglect to supply him, you do not your duty; the King has done his part to the full—Moves for a shorter day, for reading the ingrossed Bill.

Captain *Legge* *.] Gives an account of many men deserting his ship, (the *Royal Catherine*) upon the rumour that the Parliament would give the King no money.

Sir *Thomas Meres*.] There was such a time as seamen deserting us, (within a fortnight) and then there was reason for it; but now, blessed be God! the reason is removed—The motion is good, in relation to the King's affairs—Remembers with what unanimous consent the money was given, intended for his best service; and remembers then who moved for it—The Bill may have its due execution, within its time, if delayed a little—As to the affairs of this House, businesses cannot go fairly up to the Lords House, now upon our hands—As to the Lords, he denies not but things do yet go fairly on—Would not have this Bill sent up to hinder them, to make a parenthesis in business there to interrupt them; he offers the Lords leisure, but imposes nothing on them

* Created Lord *Dartmouth* in 1682. He was afterwards Master of the Horse to King *James II*, Governor of the Tower, &c. and at the time of the Revolution, he was Admiral and Commander in Chief of the *English* fleet, which was detained in the *Thames* by the same wind that brought the Prince of *Orange* over. In 1691, he was committed to the Tower, where he died

of an apoplexy, three months after *Barnet* says, "He was one of the worthiest men of King *James's* Court. He loved him, and had been long in his service and in his confidence: But he was much against all the conduct of his affairs; yet he resolved to stick to him, at all hazards." The present Earl of *Dartmouth* is his great grandson.

—If

—If any man would have the Money Bill pass in the Lords House the next week, concludes that the rest of the Bills cannot go with this.

Sir Thomas Osborne.] Is sorry to hear a day named so far off—You hear the approach of the *Holland* fleet, and is sorry to have occasion so often to tell you of the backwardness of ours—The argument for the Commissioners meeting in *April*, some time after that mentioned in the Bill; and yet timely to execute the Act, is not the same thing; for it will, by being in the Lords House, give credit to the Commissioners of the Navy and Ordnance, which yet it cannot have—As to the other arguments, it is confessed, an issue we may desire from the Lords; but that may be remedied, the present necessity cannot—We shall meet again, and then would not be thought one of the obstructers of this Bill of Popery—The one may be repaired, the other cannot, which makes him for it.

Mr Vaughan.] The giving this Bill so speedily out of our hands may call us a kind and bountiful Parliament, but never a wise one—The not passing the other Bill will expose us to right of conquest again: A greater matter than any thing else—When the King has hearts, he has purses also, and can never want seamen—*There is that scatters and yet increases; and there is that withholdeth more than is meet, and it tendeth to poverty.*

Sir Robert Howard, to Mr Vaughan's Dilemma.] After Chatham business, the King had a greater opportunity to impose than he has now—It looks hard, that after the King has granted so much, you should be jealous—The King has not left any thing to do to us; and must we stop Supply, because other persons (the Lords) have not done what you would have them?—This Bill cannot be ingrossed suddenly—It would look ugly in any man to do it—No man can write the Bill fairly till *Tuesday*—Hopes the thing will be as full of good intentions as ever; but that those intentions, with delay, will be defeated.

Mr Garroway.] Hopes in time we shall have an answer

swer from the King, as to the impositions; and possibly some persons, that advised that with the Declaration, may have apprehensions upon them—He forgives them, and prays God that he would—Hopes for a general pardon, that they may have the benefit of it.

Mr *Powle*.] Conceives it the right of Parliament not to enter into Debates, so much as of Supply, till redress of grievances; and it seems a tacit obligation upon the King, to redress the grievances, because it smoothes the way the better for money—No man can think that we have no more grievances than already complained of—Would not delay the Bill till all the grievances be redressed, but would till they are stated to the King—Sees, by authority, a printed paper of imposition on commodities, not imposed by Act of Parliament—It is said, “that, by stopping the Bill, we shall put a violence on the Lords;” but we put none upon them: If this issue with them answers not our ends, we may think of something else—All arguments he hears spoken of, for the hastening this Bill, are the tragical fates of necessity; but still asks, Who occasioned this necessity? when it might have been prevented by the Parliament’s being called in *October* last; and thinks them guilty of a great crime that were the authors of the advice of prolonging it till now; and hopes to have that, and some other grievances, redressed—Your Clerk, he hears, sat up all night to ingross part of the Money Bill, and it cannot be retarded by a few days.

Mr *Thomas*.] We have exposed the person of the King, by answering our grievances of Popery; and thinks the King not safe without removing some persons; and names Lord *Arundel of Wardour*, Colonel *Richard Talbot*, and Father *Patrick*.

Sir *John Duncombe*.] Is much surprized at the Motions he has heard to day; very unreasonable, and untimely brought forth—No Prince ever made such an answer as the King has made; he has done what lies in him—Is sorry to see still new clouds rise—Nothing is gone from you yet, but the Bill of Popery, and the first moment

ment read in the House of Lords, and they are now sitting upon it—Why is this? He never heard a Question, that after this Bill is perfected, it should not be ingrossed—Your fears are taken away; if ingrossed, you may stop it still—Is ashamed to tell you of the lowness of the Exchequer*; but those arguments are stopped by money—Appeals to Gentlemen concerned in the Revenue and Navy-office, if things are not at a stop for want of money—The thing is not graceful, it has not a good countenance; it is so methodical, so easy and decent, the Question for ingrossing, that he wonders any man can press against it—No man can take any thing from us—The Bill, after being ingrossed, may lie upon the table, and you may call for it as you shall see occasion.

Colonel *Strangways*.] Consider the nature of the thing; we owe the removal of our jealousies to the King, who has graciously done it—Was it not a great point, the redressing our Laws, when attempted to be destroyed at one blow? Every man knows, that these Money Bills are ingrossed to your hands—When we follow the steps of our ancestors, we shall do as wise things as they did—“Let the Bill be ingrossed, and lie upon your table,” say some; but what calling will there be for it then?—Fears nothing but surprizes—Would not force the Lords, but would have them pressed by some arguments we use here—Is for *Friday*.

Sir *Thomas Lee*.] If one great and extraordinary grievance be, and that redressed, shall that be an argument for the King to redress us no more? When no more grievances are mentioned, it will be thought we have no more: Not to mention other things, besides that of *Ireland*, the great growth of Popery, and our neighbour's house on fire—Hopes that persons concerned will acquaint you with it farther—He loves his ease in the country, and would be there, but would not have the King ignorant of many things: With that of the Order of Council imposing a rate upon coals: Hopes, in due time, to have a redress of these things and others.

* He was at this time Chancellor of the Exchequer.

Colonel *Birch*.] Is far from thinking that the King has the least jealousy of the Money Bill, but that we intend his honour and safety—Any thing of great or rich he has came from us ; when we could not tell who was Master when we came hither, thanks God we know now, and hopes no more clouds will be stirring—Impositions against Law, the people pressed, and that of *Ireland*, and should be loth that if any thing farther should be offered of grievances, any man should say, Why have you left these things unrepresented, and the King so gracious, in granting what you have asked? Bills are much more slippery in parchment than in paper—What he moves, is for the King's honour and safety—Was the enemy here now, would say nothing of it; but why were we not here in *October* last? No man can say there has been the least backwardness in this Parliament—Would have the Paper Bill lie on the table till *Friday* next.

Sir *Trevor Williams*.] What he has heard makes his heart bleed ; and therefore moves for *Monday*, to consider redress of Grievances.

Sir *Edward Dering*.] We all tend to the same end, and let us go the same way—After *Friday* but a few days to *Easter*—The Bill of Supply will take up a whole day reading, and some unforeseen delays may stop it ; therefore moves for *Friday*.

Sir *William Coventry*.] The Clerk is ingrossing the Bill without order ; and you were told another shrewd thing, that a great deal of the Bill was slipped in the ingrossing—Would not have any thing doubted hereafter ; you are Judges of it here, and others, when you have done—Would have what is written already, cancelled, and not brought to you.

Mr *Waller*.] Ingrossing without order ! It may be copied in parchment for some Gentleman's use, as well as in paper ; sometimes we were in such great haste, that the Act of Oblivion, in its confirmation, was not read at all—When a Question has been of not putting the Question now, has known that Question never put at all—If that Question should be now, no man can speak to the
ingrossing

ingrossing the Bill afterwards—Are not necessity and speed acknowledged by the House? Are not our grievances redressed, and have not our forefathers taken care to keep Papists out of authority, and we greater?—In the late times, this House had a passionate suspicion, and we would have removed Papists, and it was afterwards, by that passion, done much worse—“Never was doubt of a Bill once voted but passed,” it is said; but we may remember, but last Session, that a dispute with the Lords about heightening and lowering rates, damned our Bill of foreign commodities*; our Votes since have lost their credit—Is against Popery, and we have both *leges et mores* against them, Law and inclination of the people against them—Will you neither trust them, the King, nor God, but trust an enemy in retarding this Bill? Would you have them come out to sea, before our Act comes out in print?—If you find not a way, there will be *viam invenam aut faciam*—Necessity stamps all things with a face of justice—Would have *Friday* ordered for ingrossing the Bill.

Sir Thomas Littleton.] Sir Henry Vane was the first that ever proposed putting a Question, “Whether the Question should be now put†,” and since, it has been always the forerunner of putting the thing in Question quite out; therefore would not have that Question put now.

Sir William Coventry.] There is great difference between, “whether the Question shall be put,” and “now put.” It is no new thing to put that Question in point of adjournment; and if it passed in the negative, it never was, but that the House was afterwards adjourned.

Mr Garroway.] It is certainly agreed by us all, that that Question of the Bill shall be put; though the Question of the day be as is proposed.

Mr Secretary Coventry.] Can any man tell that the *Hollanders* are not strong enough to come out, or that they, by their Confederates, may not invade us? An enemy that can invade us and will not, no man can say—When you shall give it, and the enemy come and gather

* See Vol. I.
Vol. II.

† Now usually called “The previous Question.”
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it, you will put the King upon his necessity—The shew-bread was eaten by *David*; it was not forbid, but told us for precedent.

Colonel *Strangways*.] Is sorry to hear of these necessities—Bring us the men that have been the occasion of these necessities, and he will tell you what to say to them—He that does the necessity is not the judge of it—Was not *salus populi periclitatur* the occasion the ship-money was called for? Knows not what belongs to these little bye tricks—Great necessity is to be argued in the Lords House, not here—Those arguments, if used, let them be there; let us hear no more of these arguments; and let us not be reproached with these arguments of necessity, that were not the occasion of it, but [let them] be laid on persons that occasioned it.

Mr *Garroway*.] If those Gentlemen will join issue on the argument of necessity, let the causers of it be accountable for it.

Mr Secretary *Coventry*.] Is not afraid of our's, nor any man's hearing what counsel he gave the King—Desires that whoever is faulty, be it any man, he may answer it—When a man has been debauched by another, and falls into a distemper, your first business is to cure the man, and then blame him that debauched him—If there be such men, that have been the occasion of this advice, let them answer it.

Sir *Thomas Meres*.] This thing of “necessity” was an ill argument at first, and would not have *Waller* (*who proffered to speak again*) speak twice to it, to inflame it more.

The Speaker.] No man can find any precedent of Sir *Henry Vane*'s Question—By that Question we can never come to an end of any business—The Question in being may be the next day put, and so you usher in an impossibility of bringing things to a period.

Sir *Robert Howard*.] This Question is like the image of the inventor, a perpetual disturbance.

Mr *Garroway*.] If you can find out an expedient, that may

may carry off the heat, is for it—If you adjourn the Debate to *Thursday*, there is no heat in it.

Colonel *Titus*.] Some Gentlemen believe the Bill already ingrossed; if so, it is more haste than could be wished—The desire of some is to get a competent time to get grievances redressed; others, that the necessity of the King and kingdom require a dispatch—A competent time is agreed on both sides; he thinks *Friday* so; and then to bring in our grievances remaining—He hopes this may give satisfaction.

Sir *Thomas Osborne*.] Would know the cause why the rest of our grievances are not alleged—As for the Declaration and Religion, he appeals, whether, when there was a stop of the Money Bill, those two things were not the cause then—All that the King could do, he has done—Does believe that by *Friday* we shall have an Answer from the Lords—It is necessary, either in this House or out of it, for subjects to give the King time, and a right representation of things—Should be sorry that any of the Privy Counsellors endeavours should be so blasted in this House, that they do not their part, till the King give you farther cause to apprehend so—There needs no jealousy on our parts now—How shall we have assurance, that the King has satisfaction in our intentions? Why should not the marks from this House be undeniable? If this be your case, then to put a Question that has dangerous construction in it—Is not for putting it.

Mr *Vaughan*.] The King has no fault, the Law says he has none, and hopes that none say so in this House—Grievances have come before Supply, in right course of Parliament; if now they come after, it is an example of great affection, and in few Parliaments—If we are content to part with that right, and [let it] be for the present overlooked, hopes it shall not for the future be urged as a precedent.

Ordered, That the Money Bill be ingrossed, and brought in on *Friday*.

Monday, March 17.

On the Proviso concerning the Covenant in the Bill for Ease of Dissenters.

“Renunciation of the Covenant for such only as have formerly taken it.”

Sir John Bramstone.] No man can tell who has taken it, and who has not, the Registers being lost.

Sir Thomas Meres.] Be it at their perils—If they do not renounce it, their promotions are all void.

Colonel Birch.] As *Mr Waller* said, the other day, “that the Act of Oblivion was not read, when confirmed by this Parliament,” so he may say now, that part of the Act of Uniformity, which contains the Common Prayer, was not read—The Act of Indemnity says, “the Covenant shall never be spoken of more,” and you repeal that Act in part.

Mr. Vaughan.] Subscription is but a fallible sign; renouncing it by oath, a true one—The Act of Uniformity made great invasion on the Act of Indemnity; and now, by this Proviso, you evidently do so, so that the subject is in a worse estate as to oblivion yet, by this—Though the Church did admit many that had taken the Covenant, yet this Proviso does not—This is to capacitate a man, by incapacitating him; your end is great and noble, do then the just means to your end—This Law signifies nothing, but to reproach the persons you would give Ease unto, and give yourselves a discredit.

Sir Robert Carr.] If this Clause will divide the party, is for it—It is an Act for tender consciences, and can any man be thought so that has destroyed the Government?

Mr. Waller.] The Act of Uniformity did not make people confess the taking of the Covenant; this does, and intrenches upon the Act of Indemnity; and therefore he is against it.

Sir Richard Temple.] Would bring the Laity of the party into the Church, and this Proviso will fright them—To make something not in the Act of Indemnity nor
Uni-

Uniformity, will be a greater breach of the Act of Indemnity.

Mr. *Hale*.] Mr. Solicitor *North* would have it called "detestable Covenant," but here is that word "unlawful," a greater word; many things are "detestable" that are not "unlawful"—Would have the Proviso thrown out.

Mr. *Powle*.] The Committee left out the word "detestable" to avoid any reproach upon persons.

The Proviso passed.

Debate on ingrossing the Bill.

Sir *John Duncombe*.] Is against all the Bill—As far as it is for Union, is for it, and the bringing men into the Church—As to "assent and consent," would have it taken away; but that will give men an impunity for not coming to Church; they will never come to Church—Offers it to consideration, whether mankind will not generally live after this Law—The Parliament have overcome themselves, and they make this Law "for a year and to the end of the next Session of Parliament"—If you should read over and examine your reasons to the King formerly, against Toleration, they would fly upon you—You have provided against Popery, and this is a great party; ambitious men will rise with them, and will support them to your posterity—What will the young men say at the Universities? "Let us turn our parts to preach sedition and new lights, and return to the Church, as to an hospital, when we are old; which, by subscription, they may get into. No preferment in dull logick." This will be the effect; they will support one another by marriages and interests; it will be past your power to revoke it with all the interest you have—You are to have an eye over them, and watch them—Dreads the consequence of this part of the Bill—It will work upon all your concerns and interests—Leaves it to God and you.

Sir *John Bramstone*.] Supposes you would have every man to be of some religion, and to be master of his servants; and have the Teacher and his congregation deliver their names to the Parson of the parish.

Mr Secretary *Coventry*.] You are not making a Bill to destroy the Church, he hopes—You are not only doing a new thing in the kingdom, but in all the world—Here are no limitations in it to Churches, no limitations to Congregations; it has been no where so, wherever he has been—It is said, “they are the wiser and richer part of the nation;” the more is the danger. You do a thing never tried before, and you put it out of your power to remedy the inconveniences of it—They, in intermission of Parliament, may put the kingdom in an uproar, and in great danger, before you can provide any remedy by Parliament.

Sir *Charles Harbord*.] The severity of the Churchmen has driven eighty families out of town; that has done us irreparable hurt in our manufactures of wool—Since the Declaration, they have met *Pompi Gratia*, and yet reduced from two to one; restrain them and you increase them—A Bishop, in the northern parts, has told him, that, since the Declaration, many have come into the Church—This Bill is for that end.

[The Bill was ordered to be ingrossed.]

Several Grievances concerning the kingdom of *Ireland* being in great danger were reported by Sir *Trevor Williams*.

Lord *Fitzbarding**.] Can testify many of these things—Knows many Papists that are Justices of the Peace in *Ireland*, and has sat upon the Bench with them—Colonel *Talbot* has a troop of horse there, so has Lord *Clanrickard*.

Earl of *Arran*†.] Knows of a great many Popish recusants that are Justices there—The Papists offered an affront on the fifth of *November*, a solemn day, to the Mayor of *Clonmell*—Colonel *Richard Talbot* has a troop of horse there—So many Papists in command and trust

* Brother to that Earl of *Falmouth*, who was killed in an engagement with the *Dutch*, in 1665.

† Fifth son of the Duke of *Ormond*. Created a Peer of *Ireland*, in 1661, as he was of *England* a few months after this Debate, by the title of Lord *Butler of Wexford*, for

his services in the famous sea-fight that summer with the *Dutch*. From May 1682, to August 1684, he was Lord Deputy of *Ireland*, on his father's going to *England*, and died in 1686. He was uncle to the last Duke of *Ormond*; as also to the late Earl of *Arran*.

there,

there, a great Grievance to that kingdom! Never a parish of ours but has one or more Popish Priests in it; and shall, as occasion serves, farther inform the House—He has been told, that they have exercised Popish jurisdiction, in an episcopal manner, in *Ireland*.

Sir *Edward Maffy*.] The Oath of Supremacy has been administered to some of them, and has had ill effect; in *Tipperary* the Duke of *Ormond* suffers no Priests, but there are in all other places—They said, they should have their religion entire, and would have their lands again—The King sent his letter to the Lord Lieutenant, signifying, that it was never in his heart to alter either the settlement or the government, and orders him to let it be known in the kingdom; so he hopes that has been pretty well allayed—For the business of *Clonmell*, the Mayor did lay about him, and quieted the tumult—*Produces a letter informing him*, “That at * * * * there was a great concourse of people; the Constables, when the guards came, told them, “that Mass was said there, and the people wondered they should be interrupted;” but upon search, no indulgence was found from the King to have public Popish meetings.” You see, by this letter, they are confident they may do any thing. The fourteenth of *June* last, one hundred and fifty four Priests met five or six thousand people, some well armed, and shot at those that came to suppress the meeting—They had Popish authority, and printed several things tending to the *Roman* jurisdiction—Knows no body that is a Popish officer, but Colonel *Richard Talbot*—Has seen two or three thousand people at a time, besides the other number spoken of.

Mr *Cheney*.] Lord *Arran* had an account by letter from the Mayor of *Clonmell*, and desires it may be read.

Mr *Powle*.] By what he has already observed, *Ireland* must be in a dangerous condition—We have that Kingdom by Conquest, and generally they are under Popish jurisdiction, and not to be preserved but by the power of the Conqueror—There has been a general design to set up the Popish and *Irish* interest, to out the Protestant

and *English*—Knows that we are to present the grievances of the King's meanest subjects, and that the King is ready to redress them—Presents the Act of *Cromwell*, wherein the *Irish* have free power to enter into all trade, which gives them intercourse with foreign nations—If the *Irish* are thus brought into garrisons (as all Corporations are) they may by this have the military power; and by being of Corporations they will have the Magistracy, and the chusing Parliament-men, and so have the Civil power too—An Order of Council also there is, to forbear any prosecution of Civil actions against persons that have done wrongs in the Rebellion; all the King's subjects are forbidden it, and a farther promise in the next Parliament for a general oblivion—It seems, as Declaration-Law has been set up in *England*, so it has in *Ireland*—The condition of the army in *Ireland*, ever since the Conquest, has been Protestant—Some part of that army has been disbanded, and reduced to be less—Whether the *Irish* have deserved that favour or no, he knows not—Lord *Pore*'s regiment, and part of the Duke of *Buckingham*'s regiment, drawn out of *Ireland*, and when arrived here, known Popish officers—*Talbot* put into command but to break the ice, for many others to follow—The army very much less, and yet the thirty thousand pounds deducted for saving charges, granted out into *Irish* Pensions; how safe that is, leaves it to your consideration—No Bishoprick of *Ireland* but has its Popish Vicar-General, and every parish has its Popish Priest to officiate, like the Minister of the parish—They durst not do this, but from great connivance somewhere—*Peter Talbot*, the pretended Archbishop of *Dublin*, has excommunicated several Papists for their allegiance. He was, at the desire of the King, expelled the Jesuits College in *Brussels*, for his undutifulness there to the King—He was intimate with Sir *Henry Vane* in those times—This is the best information of the *Irish* affairs he can have, and thinks he could not do his duty without informing the House; and presents the Papists printed papers in *Ireland* to be read.

Lord

Lord Obrien.] Knows a great part of, what has been said to be true—Thinks that an Address to the King may remedy the thing—These people do not only what they do, as Papists, but they set up an authority there of foreign Princes—As to Commanders in the army, knows none but Colonel *Richard Talbot*—But, for other matters, hopes you will redress them.

Sir *Philip Monckton**.] The last Rebellion in *Ireland* ended in the death of the late King; and, if a stop be not put to this, it may be the ruin of this King—Would have *Ireland* secured, for his and our safety—They had not the liberty, and knowledge, of arms, as they now have, and they did great things then; there was but *O Neal*, and a few others, but now they have good Commanders—*Talbot* is like a General; and they have fifty Bishops in *Ireland*—Moves to have him secured immediately.

Mr Secretary *Coventry*.] Here are brought in generally grievances, by Authority, against Law; nothing is a grievance till you declare it unlawful. The King's Proclamation, relating to *Ireland*, is for no other Privileges, than what the *Irish* had in the late King's time, King *James's*, and Queen *Elizabeth's*; the vent of their cattle hither is taken from them; their trade is lost—The Declaration, about the *Irish* coming into Corporations, was of force only till rules were made by the Lord Lieutenant, which have been made, and are very satisfactory to the Protestants—He humbly represents, that that Proclamation from his Master is legal—The business of *Clonmell* he looks upon as a mad, foolish thing, but hears no man say it is by order from the King; but if any one can show that these are tolerated, they are but effects of it. For what is against *Peter Talbot*, let him answer for it—What the grievance is does not know, till the illegality of it be stated.

Sir *Thomas Lee*.] Is not well versed in the Law of *Ireland*, but, if he be rightly informed, Oaths of Allegiance and Supremacy ought to be taken, before a man can be a Justice of the Peace in *Ireland*; if he do not, it is

* Great Grandfather to the present Lord Viscount *Galway*.

contrary

contrary to Law—*Coventry* said, “ that, in the Act of Settlement, there is a prohibition for the Papists to settle in Corporations, till farther rules and directions made by the Lord Lieutenant”—He concurs fully, that this may be in an Address to the King, to prevent the growth of Popery there, as well as here—Would prevent their coming into Corporations; but if he takes the rules right, they must take Oaths, with a power to the Lord Lieutenant to grant particular Dispensations, which he would have cautiously granted—Moves for an Address to the King, things being much altered since *Queen Elizabeth’s* time; they are very different now, the jurisdiction of the See of *Rome* being exercised by authority—Hopes, by this Address, to find that kingdom in a better condition at our next meeting.

Sir Robert Howard.] What you have before you is sufficient to ground an Address upon to the King, for his care of suppressing Popery—No doubt but that much exorbitancy has been committed, by the ecclesiastical part of *Romish* jurisdiction, much the more pleasant and profitable—Would have Gentlemen so prepare the Address, either to the examination of the thing, or the Law.

Colonel Birch.] Would never have begun with this business of *England* and *Ireland*, was not he resolved to have gone through with it—The intercourse of *Ireland* and *England* is lost; where they trade a penny here, they trade a pound in *France*, and other foreign places—Does not understand *Latin* very well, if he hears it read well—(*Reflecting upon the Clerk’s ill reading the papers, given in by Mr. Powle, relating to Peter Talbot’s ecclesiastical authority*) That tells you of the Pope’s authority on this side the water—Those that are to draw up the Address, he hopes, will take care to secure these active persons—We cannot believe but that the King will go with us in this business; we need not doubt in the least, but that the King will give us an Answer to our Address.

Sir Thomas Meres.] You have a complaint of an Archbishop *Talbot*, and a Soldier *Talbot*; you had complaint of these persons the last Session—In all these points you have

have agreed to go to the King before—We are every Session troubled, and we trouble the King, with Addresses, and still the thing is not done; we must now see the thing done—For the soldiers, would not have that to mix the Question.

Sir *Thomas Clarges*.] It is said “it is not a grievance unless illegal;” but *Empson* and *Dudley*’s case was a grievance, and that was executing the penal Laws—To say, “that in Queen *Elizabeth*’s time, King *James*’s, and King *Charles*’s time, some of the *Romish* Religion were in command, and Justices of the Peace in Queen *Elizabeth*’s time;” it must be considered, that when they were so, there was no national Rebellion; the late general and national Rebellion had scarce ten men involved in it—When the Rebellion began there, a Parliament was sitting, and, instead of suppressing it, they rather countenanced it—Considering that he, who is now Chancellor of *Ireland*, is an Archbishop, believes some great surprizes there from hence, things else could not be as they are—Consider the season these things are done in; now thirteen companies of foot, and six troops of horse disbanded there, seventeen or eighteen companies drawn out for Lord *Pore*’s and the Duke of *Buckingham*’s regiments, and after such discouragement to Protestants, thirty thousand pounds a year, saved by these mens remove, disposed of in Pensions to Rebels, or some of them—The King is abused in it, and should be informed of it—Eight years ago an Archbishop has been met there with twenty followers—In the late King’s time, no pretended Bishop could make Priests there; the Law to Priests not so penal as here; but that they should have such public jurisdiction, he scarce believed it, till he heard it here—The *Irish* are the most priest-ridden people that are; but if the Popish party come into the Magistracy there, we must look to that—*Peter Talbot* was once sent for by this House; he was degraded in *Flanders* for abusing the King, and he is so insolent now, that some great mark ought to beset on him—Would have all dignified Clergy removed from thence, and the troops
ordered

ordered back for the peace of the kingdom—Would have the business committed.

Mr Attorney *Finch*.] Finds every man for the Address; hopes it will be with that prudence that carries duty with it—Sees little notice taken of the advantage gained in *Ireland* by the Papists, five millions of acres being gained by the Rebellion; no expedient ever found, by either perjuries or forgeries, that the Papists have gained above one million and a half of acres—There is no Corporation upon which Popery can be planted, but with great difficulty—After all this, believes not one Priest more in *Ireland* than ever was, but thinks them more vain, foolish, and pragmatical than ever before—Nothing would gratify *Ireland* more than your Reformation, that they might be rid of many of them—*Ireland* wants not Laws, and if every little drunken quarrel betwixt Papist and Protestant must be taken notice of here, you will have work enough—Three hundred years ago, it was *præmunire* to act under the Charter of the See of *Rome*; by the old Laws, in Sir *John Davis*'s reports, they were suppressed—They would now show themselves better Catholics than their fathers—Advises that the Address to the King may be, “that he would see himself obeyed, and that no foreign power may be owned.”—When we ask for too much, we have the less hope of success—To send for *Talbot* hither, would be to send for him to be hanged, drawn, and quartered—The army is always sufficient to keep them quiet; and as for the Pensions, no man will think much of the King's rewarding a repenting sinner—There is but one Catholic Officer in the army—All agree for an Address, but would have it with all modesty and humility.

Mr *Vaughan*.] One Proclamation was in general from hence, for persons to exercise their trade; the other is to exempt them from suits—Has heard that *Talbot* has but a troop, but those in it are able to raise twenty thousand men—The Attorney has painted *Peter Talbot*'s doom, and he deserves it—Excommunicating the King's subjects for their allegiance is unpardonable—If any

two Dissenters here had made such an insurrection; as is complained of in *Ireland*, the whole party would have had the blame and reflection.

Mr. *Powle*.] How many hundred times has it been complained of in Parliament, that the King has pardoned offenders too frequently, thereby emboldening them, though the King has power by law to pardon? The power for Catholics to come into Corporations in *Ireland* is unlimited; whether that be lawful, by the Act of Settlement, without special Dispensation from the Lord Lieutenant, leaves it to your judgment; with a deterring men from following their legal actions—Finds the diminishing the army to be very perilous—The *Irish* grow insolent, and less *English* strength is not consonant with good policy—The public treasure of the nation is not fit to be employed to private uses—Though the *Irish* Clergy are vain and foolish, yet their insolence is grounded upon some countenance allowed—Would not diminish our complaints, so as not to have them understood by the King.

Mr Secretary *Coventry*.] Every man would be hanged in the *Irish* quarters, were the laws put in execution.

Mr *Powle*.] Criminal actions are not so much the Complaint, as forbidding Civil actions the Grievance.

Mr Attorney *Finch*.] Let this House judge, as wise men, what would be done in this case—Our Act of Oblivion extends not to *Ireland*; but the *English* Act will not exempt you in the quarters of the Rebels. *Irish* Rebels may be sued; but the *English* Rebels, that have plundered, may not. Where suits are stopped on one side for a party, and let open for another, thinks the exemption from being sued illegal; but then, how necessary, leaves it to you.

Mr *Garroway*.] Either the thing is not worth your Address, you blowing cool in it, or to screen some persons—If you are not ready for a Question, he has something farther to say.

Sir *Thomas Lee*.] The House thought this exemption fit for *Ireland*; but if not since thought so, it might have been repealed by the same authority that made it.

Sir

Sir *Thomas Clarges*.] Though not twenty *Irish* Papists were in the rebellion, and not above a fourth part no-cent, it is hard to prove; for it must be proved by persons present.

Mr *Swynfin*.] The exercise of this dangerous Popish authority, and the lessening of the *English* interest, by letting them into Corporations by a *non obstante*, are the two heads comprehended in your Debate—People without doors know it; and would have the Address upon particular Complaint, and Debate thereupon, to the weakening the *English* interest there,

Sir *Thomas Littleton*.] Now the House is in a good disposition, desires the thing may be off our hands—Now shortly will come down the Bill of Popery, and *Friday* you have ordered for the Tax—The rest is a single point, not breaking into particulars, as this has done.

Mr *Garroway*.] Thinks him in the right; you represent, only to lay these things before the King, not doubting of his redressing them—Desires to enumerate them all now, and draw them all in one Address.

Sir *Robert Thomas*.] Moves to have “Colonel *Richard Talbot* forbid employment in *England* and *Ireland*, and forbid to come within five miles of the Court,” part of the Address.

Sir *Robert Carr*.] You intend quieting of *Ireland*, but you must consider your reputation in this House—Colonel *Talbot* has served the King in the rebellion in *Ireland*, and has served the King in the rebellion here—It is said, “he is Solicitor for the Papists in *Ireland*, and it may be for ill men;” but to ruin a man unproved, and a man of reputation! Let us not make a precedent, to reach a man you would not reach; upon common fame to do this, makes him think there is something more against him—Good fortune may sometimes be a crime.

Mr Secretary *Coventry*.] Differs from *Carr*—The whole Debate of the House is grounded upon the assertion of some of the Members—There is no law against his troop of horse, a man of no ill actions; and to forbid him the kingdom for that, before you put a mark upon him!

Let

Let it be asserted what he has done, in particular, illegally; the bare saying "he is a Solicitor for the Catholics," is no ground, but what ill he has done for them—As he may have done ill, so he has done good, in *Ireland* and *Holland*.

Sir *Thomas Lee*.] It is said, "there is nothing in particular against this person;" whether this person being now in actual command, and the taking public notice of it, is a thing insecure for that kingdom; by Law he takes it to be so already—By Law, no convicted Recusant can come within four miles of the Court, without the King's special command; and the motion is, for "*Talbot's* having no access to his Royal Person," to which he is made incapable already by the Law of *England*.

Sir *Trevor Williams*.] Is informed that the Duke of *York* has turned many Protestants out of his troops, and taken in *Talbot*.

Mr Secretary *Coventry*.] Assured the contrary, that none were changed.

Lord *Obrien*.] There were but two people put into *Talbot's* troop, and they were his relations, about a month ago.

Sir *Thomas Higgins*.] Is informed, that he has Protestants in his troop, and is sure he has a Protestant in his bed; and has heard he keeps a Protestant Chaplain in his family—Would not have you so severe as to brand a person, when there is nothing against him but fame, he having served the King both abroad and at home.

Mr *Garroway*.] Looks upon him *quasi* Papist, and no otherwise—Would not have the thing go to a Committee.

Sir *John Duncombe*.] Those that know *Talbot*, separate him from this notion now in Debate, and look upon him as a gallant man—It is a severe thing to be named in the House of Commons, and he may fall out to be the single man named here—You have said enough to give him caution how he carries himself.

Colonel *Birch*.] Desires that he, and all of the Popish religion,

religion, may be removed out of command or trust in *Ireland*.

Mr *Harwood*.] Would have it represented, that they are more dangerous in *Ireland* than here; but would not have him named in particular.

Sir *Thomas Clarges*.] When the House was so sensible of this person the last Session, wonders why now he should be exempted—He has been in *Ireland*, but will not say what he has heard there; but would hear any man tell him, in what regiment, and under whom he served, against the rebels—He has heard that a Protestant has been displaced to put him in, which discourages the rest—It will be made out, that he procured a Commission under the Great Seal, to enquire into all the estates of *Ireland*—Would have the thing committed at large.

Mr *Waller*.] Accusation ought to be free, and may be allowed free and open; but to commit a man, and not charge him, hard—Papist is a crime, that makes him liable only to the laws in being against him; to blemish and speak ill of a man, is dangerous.

Mr *Powle*.] Will not only be as tender of the lives of men, but of their reputation, as he would be of his own—Because there is but one Papist in command in *Ireland*, would have him turned out, to be none there—To that of being “named in this House,” would not have him countenanced here; and after having him “named here the last Session with so many marks upon him,” it is a strange boldness in him to take military command since—Should you countenance people that presume to send an Ambassador to their own Prince, naming himself Agent for the Catholics of *Ireland*?—Appeals to the Privy Counsellors—If so, he hopes this House will set a mark on him—Whoever desires you not to impeach a man, desires you not to punish him—

5 *Hen. IV.* Complaint was made to the King, in Parliament, of his Confessor; the King, though he said he had nothing against him, yet, upon the desire of the Commons, would put him out of his service, and removed him. 29 *Hen. VI.* *Somerfet* and *Dudley* the same—

Dr.

Dr *Turner* impeached the Duke of *Buckingham* upon common fame.

Sir *Charles Harbord.*] Thinks it a wonderful thing that this man should be put into command—This commission of his shakes the Protestant Interest in *Ireland*—Thinks him fit to be removed.

On other Grievances.

Colonel *Birch.*] Would have “*pressing men*” and “*the imposition on Coals*” referred to the Committee to bring them within this Address.

Sir *Thomas Meres.*] Delivers the Proclamation for the imposition on Coals. (*It was 12d. a chaldron, without Act of Parliament.*)

Mr Secretary *Coventry.*] It wants the Preamble of the Council, and is not the same Petition mentioned.

Mr *Garroway.*] Hopes the Citizens will take warning, and not make any more Addresses to the King of this nature.

Sir *William Thompson.*] This Proclamation was for the safety of Coals during the war; the city gave charge to their Commanders not to take a penny; they had no more than what was voluntarily given; the imposition was never commanded.

Colonel *Strangways.*] The city says, no money was taken; they may thank the Parliament for it; but hears of bonds taken—Necessity for fire is a great matter; so he hopes that necessity will be taken away.

Sir *Thomas Lee.*] This hereafter may be taken for granted, upon the Council-books—Poor seamen are afraid to say any thing, for fear of being pressed, and so will say no more of the bonds taken.

Mr *Powle.*] There is a Proclamation likewise “*requiring all the King’s subjects, upon any injury received from the King’s soldiers, to complain to the Officer for justice; and if he does not do it, the next Justice of the Peace to take the examination, and certify it to the Lords of the Council, where the King will take care of the thing*”—He knows of no exemption any man has from the

course of the law; the law has not this course, but when *Hannibal ad portas*, which, he thanks God, is not the case now—This may introduce martial law; for the Lords of the Council cannot hear every complaint, and will refer it to the Court-martial. (*The Proclamation was read.*)

Sir *John Duncombe.*] This often happens to what is intended for the best, it has the worst construction. Complaint upon the place first, and so to the Justice of Peace, that the Officer may not abuse the King, the King will hear the Officer—The Proclamation does not say, “the Justice of Peace shall not do his duty,” who is as much at liberty as before—There is no ill intention in it—By this, upon the quarters, speedy justice may be done.

Mr. *Vaughan.*] We desire “speedy justice,” but from persons in Commission.

Sir *Robert Carr.*] This Proclamation is only that the Officer may do his duty, if negligent; and stops nothing of the Justice’s authority.

Sir *Thomas Meres.*] A country fellow is cut on the pate, and he must go to the Officer, who is, by this Proclamation, the Justice of the Peace, and the Justice the Officer’s Clerk. Possibly the Officer may not write well, though a good soldier, and may have need of a Clerk—But would have this thing explained, for the ease of the people.

Sir *Thomas Byde.*] Informs the House, of a soldier brought to *Hertford* Sessions, and forcibly taken out of the Court by his Officer.

Mr *Garroway.*] Since Sir *Richard Temple* spoke in defence of the thing, he finds it worse. If the Officer has power, so has the Justice of Peace, and they may fall together by the ears—Would not mix power with the Officers.

Mr *Vaughan.*] Commends Sir *John Talbot*’s zeal (*who gave an account of his proceedings in justice-affairs, in his company*) but not his justice. *Nulli negabimus, nulli differemus, &c.*—This Proclamation is against *Magna Charta*,
here

here is great delay of justice ; there may be ill consequences of it, though the King had no ill intention in it.

Mr Secretary *Coventry*.] You are at war, and let no man say it is a sea war only ; it is war, and the *Hollanders* may land here. War cannot be maintained without soldiers ; and no Gentleman can say, that soldiers were ever managed with less trouble to the people.

Mr *Powle*.] Proclamations issue out usually with the word "*rogamus*," which is not "to command"—Serjeants have been sent for Justices, that have not obeyed the Proclamation ; the soldier is still a subject, and not exempt from the law—The Justice of Peace is made a hackney (and you make him break his oath by suffering this Proclamation) to the soldier—Put it all together, and it is a direct prohibition and discountenancing of the law ; and hopes you will petition the King to recall it.

Lord *St. John*.] Complains that a regiment has been quartered in *Hampshire*, at five-pence a meal, to the ruin of the poor victuallers, who have not been paid any thing since *November*.

Sir *Thomas Clarges*.] *Lockhart*, recommended by a great Lord of *Scotland*, his character ; he was son of a Lord of Session, and raised himself under the *Hamiltons* ; when the Duke of *Hamilton* came into *England*, he was a Major in that army ; at that time he married *Cromwell*'s niece, and held intelligence with *Cromwell*—Was forbidden *Sterling* when the King was there—There were but three false in *Scotland* to the King, and he was one : He commanded *Dunkirk* for the Usurpers, and was bitter enough before the King's Declaration from *Breda*—When the Rump was here, *Lockhart* was found so dextrous, that he prevailed with *Mazarine* that the King should not be looked on at *St John de Luz*—Leaves the man to the consideration of the House how fit for employment.

Sir *Robert Dillington*.] He is informed in *Hampshire*, that they must either allow that five-pence a day, or keep the soldiers in their houses—He knows not this *Lockhart*.

Sir *Thomas Lee*.] Hopes the King will be moved to disband these, when the war shall be ended ; wishes the

Scots and *Irish* had been transported rather to *Scotland* and *Ireland*, than called here to burden us; they would do better in their own country; and those raised in *England* would do better for tillage, servants wages rising every where.

Colonel *Birch*.] Would have it in the Address, "Preferring men from their wives and children."

[To proceed in the consideration of these, and other Grievances, to-morrow.]

Tuesday, March 18.

[After Debate, an Address was ordered to be prepared to be presented to his Majesty, representing the danger of the *English* Protestant Interest in *Ireland*, and directions were given to insert several other Grievances in the said Address.]

Wednesday, March 19.

[The ingrossed Bill for the Ease of Dissenters was read the third time.]

Debate.

Mr *Waller*.] Usury, during the time of Popery, was unlawful, as supposed to be against the Law of God. We know not the Will of God but by his two Books, the Law of God and the Law of Nature—A man gives away all he has, for his liberty, to *summa potestas*—He may do and take what he will from his body, but his mind cannot be given or taken; he may command me not to speak my mind, and not to do my mind, and, in a word, to be hypocritical: Though this be a violence in general, it will be a violence but upon a few—In the Inquisition of *Spain*, a few shall suffer rather than many. *Tacitus* calls it "a good Government for a man to do what he will, and speak what he thinks."—Restraint is against the genius and whole complection of the nation—Let these Dissenters alone, and people will despise them; punish them, and the people [will] have compassion for them—The Quakers suffered bravely, and were the more esteemed; the persecuted party ever gets uppermost—In Queen *Mary's* time those of the reformed religion were persecuted, and they soon got uppermost. In Queen *Elizabeth's* time, in our times, "Prelacy and Popery" were coupled

coupled together, and people flocked to Mr *Gunning's* congregation—Neither sons of Cavaliers nor Cavaliers were admitted into the Convention, and yet they brought in the King, because that was then the persecuted party—If you believe the King, this liberty has kept Peace, and you have had proof of it—This Bill is according to the Law of God, Law of Nations, and Completion of the Nation, and he would pass it.

Sir John Duncombe.] Appeals, if ever any thing in *England* of persecution to Dissenters—*Waller* had liberty in his own house, and his friends, by former Acts—Nothing now persecuted but Popery, and therefore, by his argument, Popery must thrive and be uppermost—This Bill is quite different from the Law of God—Where are the persons that must visit these congregations, and examine and inspect what doctrine they teach? This is not according to the Law of God; Smiths, Shoemakers, and Cobblers preach. If this be according to the Law of God, he must read the Bible again—Would have Gentlemen tell him, that are so much for this Bill, in what part of the world the Church has no power to enquire what men preach? By this consequence, you will leave them to say what they will—Law after Law, Reason after Reason; has been against them these twelve years, and is against the Bill now.

Sir Charles Harbord.] *Josephus*, notoriously known, tells us, “that the two sects of the *Jews*, the *Saducees* and the *Pharisees*, held, the one Spirits, and the other no Spirits, nothing more contrary; but they never divided, they were all united as to the public Government”—A book, lately published, “of the Rise and Progress of the *Netherlands**,” tells you, that mighty things have been done there by what you intend in this Act; the severity of *Spain*, and their Plantations, have ruined them, and will us, if we look not to it—In our maritime towns we have not the sixth part of the people—The populous places of *Brabant*, by this persecution, have been dispeopled, and *Holland* has got sufficiently by it, and so did we—He confesses that he has communicated with them in *Holland*, and will do it again—

* Written by Sir William Temple.

He has had as good advice, and as learned upon it, as any man can give him, which held it lawful—Hopes this people that have Ease by the Bill will occasion you to continue it.

Sir *Philip Warwick.*] You have the Genius of the Nation, God, and the Completion of the People, spoken to—As to the Genius of the Nation, till Popery made us all afraid, he has endeavoured to make the foundation of the Church so full as to abide a good superstructure—Look upon the *Jewish* story of the sects, and they were never [there] till the time of Captivity, and never [here] till our Rebellion, till the Temple was shaken. Morality is not so planted in man, but that Customs and Constitutions destroy all that; *Cain* and *Abel* owed duty to *Adam*—*Libera mens* overthrows all Christianity. Christians at first were but a body of men, and they planted the Church, and Excommunication in the Church; and he was no Christian that was out of it—Never were men, by nature, either *Jews* or Christians. By this liberty you will lose all Registers, Marriages, and Genealogies: Let not great words make a noise; you give them liberty, and not barely indemnity—He is perfectly against the Bill.

Colonel *Birch.*] Doubts not but the people will be sheep, quiet and peaceable; and had it been only to mark them in the forehead, he is not against it—Doubts not but in a short time we shall see that the enforcing Laws upon these people, and crying out against the infallibility of the Pope, are not consistent—You would not have the Papists govern you, and that is not a persecution of them.

Dr *Burwell.*] They grow numerous: If you pass this Act, you give away the peace of the nation—A Puritan was ever a rebel; begin with *Calvin*—These Dissenters made up the whole army against the King; the destruction of the Church was then aimed at—Pray God it be not so now!

Sir *John Birkenhead.*] There was not a *Pharisee* till the fall of the *Persian* Monarchy; the Dispensations then were to the Profelytes of the Gate, viz. Strangers; that is the true case of the *Jews*—Subscription of the Clergy

is

is "*omnibus his articulis*;" by this Subscription in the Bill, they will have twenty-six of the thirty-nine Articles left out, subscribing only the doctrines; you have not in the Creed ten articles of it, nor ever thought so. Had you a list of these men you ease, the King might have apprized [you of] some; now you will have Preachers that have had their hands in his father's blood—Here are two thousand of these Preachers already, and there may be ten thousand more—Shall the old officers of the army count numbers and know persons? They may come like *Vener*, [the fifth Monarchy-man] with their arms.

[*Sir Robert Howard.*] Will not trouble you with the rabbinical law, nor history; but offers to consider, that one time you were against this, and now are changed, thinking it more fitted and calculated for the nation—The Parliament must do something at all times—They are not such enemies as is said; the Act of Oblivion has made a grave for that—Will you now crush the expectation of the nation in this thing? Thoughts are active in mens minds, when they have hope for something—Should have thought of making the King's Declaration a Law for a time; but that being not to be done, will you not compose people's minds at home, when all abroad is in distraction?—If this Bill be too much, or too little; if matters be too short in it, you may lengthen them; if inconvenient, you may alter them—You will leave, by laying the Bill aside, as much disorder in the imaginations of the people, as in the thing itself; therefore would pass the Bill.

[*Mr Secretary Coventry.*] In the main, we may sling out this Bill, or keep it, and not offend the Law of God—There is some inconvenience as to Toleration; indifferent without limit—Does think the honour of the House engaged by voting and acting; he hopes it may be mended in the Lords House, and with that hope sends it up.

[The Bill passed.]

Thursday, March 20.

A Message from his Majesty was read by Mr. Secretary *Coventry*, to this effect: "That the King intends a recess on

Thursday next [the 27th instant] and would have the House prepare such Bills [of importance] as are before them*, against that time, as well that of the Supply, as others."

A Bill for rebuilding the Navy-Office [was read the second time.]

Mr *Sacheverell*.] This Bill seems to him, as if the Surveyor-General had liberty, by this Bill, to take in ground already built upon.

[It was ordered to be committed.]

A Bill for exempting the Freemen of *London*, from Butlerage and Prizage, was read. (*Imperfect.*)

Mr Attorney *Finch*.] This Bill seems to him not good for the King, Subject, nor Citizen; no Freeman can have benefit of Prizage, if not resident within the city, by a Statute of *Henry VIII.* If you carry it to foreigners, out of *London*, their absence loses them their Prizes, though Freemen—Let not the trade of wines be driven all over *England*, by such as are not Freemen of *London*.

Mr *Garroway*.] The Freemen, if not burnt out of *London*, would never have gone out of *London*; there are no convenient houses for them, most of them being small, and for shops; and they must trade only to *London*.

Sir *Thomas Charges*.] Great complaint was made, when the Tax-Bill passed, by the Citizens, for abatement; and that persons living out of town had no chargeable offices in the city, and paid little to the tax, and yet traded—Three thousand houses empty; no want of this; this will make some farther encouragement to dispeople *London*.

Sir *William Thompson*.] If Freemen of *London* have Prizage, that wine pays no duty of Butlerage to the King—People that go out of the kingdom have no Prizage—If you pass the Bill, the King will have the duty, otherwise they will have it that have the patent of Prizage.

[The Bill was rejected.]

* In the Journal, "as can be prepared."

Friday,

Friday, March 21.

[The Bill for Supply was brought in, ingrossed, and laid on the table.]

Mr *Garroway*.] Desires that the Money-Bill may not be read till *Tuesday* next, because you have the Bill of Popery, with * Amendments, returned from the Lords, where he hears we have been strangely represented—We are all concerned to see this Bill of Popery dispatched, and to clear the reputation of this House—Therefore would have the Money-Bill, for the present, laid aside.

Mr Secretary *Coventry*.] 'Tis very reasonable that the fears and jealousies of Popery should be removed, but would not defer the Tax-Bill so long—Would go upon the Bill of Popery to-day, and would not have the King think we take any thing ill from him, who has promoted this Bill so much in the House of Lords, by his countenancing it.

Sir *John Coventry*.] Hopes in time we may make this Bill of Popery a good one—This Bill has had hard passage hither again: If we believe common fame, it nearly miscarried in the Lords House—Many more Grievances may come betwixt this and *Tuesday*, and would have that day for the Tax-Bill.

Sir *Thomas Osborne*.] “Common fame” came never from nobody, but by somebody; the Gentleman ought to tell you by whom it came—We cannot take notice of what is done in the Lords House.

Mr *Powle*.] Hopes that our zeal for this Bill is not looked upon as an offence to the King, but acceptable to him—“Common fame!” No man can nominate on the sudden, who—This discourse cannot be without some fire; in time it may come out, and those Gentlemen will tell you, when they can, where they had it—Moves for *Tuesday*, and hopes no ill intentions can be made out of it.

Sir *John Duncombe*.] Would have you look at the end you would be at—Go upon this Bill from the Lords;

* It was returned from the Lords, with some Amendments and Provisions, a little before this Debate.

you

you are masters of your Orders—Go and ask satisfaction of the King for your Grievances, and he is sure you will have it.

Sir Robert Carr.] Finds no difference among Gentlemen in the thing. 'Till we read the Amendments the Lords have sent down, we cannot tell whether satisfactory or not; we may possibly agree at a Conference. Why will you do things that may look like dislike, when it is not? Would not have a blemish on the Supply; do the one and not the other.

Colonel Bixb.] Hears much said of "common fame"—It seems to be now the Lord Keeper, Bishop *Williams's* case, in 1614, or 1616—"Common fame from the House of Lords!"—Would go with safe steps for the King and kingdom; one thing is before you, that the King may not think we stop his business—Would have this Tax Bill for *Tuesday*, and hopes by that time we shall give such advice, as may secure the King and kingdom—Stands up to remind you that this is a parliamentary way of "common fame."

Sir Courtney Poole.] Thinks we are upon such a point that we have reason to think it will startle the King—"Common fame" is not a right way for the Lords or the King, therefore would not insist upon it.

Sir Thomas Meres.] Tells the Speaker that he turns the Question to another thing—He would have the Question for the Bill of Popery, and the other Question, for *Tuesday*, firsted and seconded—Demands whether he will be pleased to own that to be the Question; and demands whether he can deny that that Question was firsted, seconded, and thirded?

Mr Cheney.] There has been something on your hands these two or three days, which is to be ready with the Tax, "the Grievances"—Would not put a certain day for the Tax, and doubts not of redress of Grievances in due time.

Mr Bowle.] Gives an account of the "Address about Grievances," which cannot be finished till the Committee can see the inspection into the affairs of *Ireland*, the Secretary

Secretary not having been attended, and could not be dispatched—This is not for the service of the King, his satisfaction, and good of the nation, and therefore we cannot in conscience part with the Money-Bill, till that business of *Ireland* be determined; but he has reason to take hold of things of “common fame,” when some great Officers have told the King, “that, if the Money Bill passed not, the King may be supplied otherwise.”

Lord *Carvendish*.] Thinks those Bills now depending, to quiet the minds of the King’s subjects, as necessary as any whatsoever—There are Grievances of an high nature, besides what are already depending; some are the root of all those Grievances, the authors of these disturbances, and those are evil Counsellors—Because other Grievances are not named, hopes people will not think there are not more, therefore moves for *Thursday* for “Grievances.”

Lord *St. John*.] Should “common fame” have weight, you would have much to do; therefore would lay it aside—As to the Bill of Popery before you, he has so great love and tenderness for the King’s person, that, without this Bill, neither the King nor we can be safe—Would have a little time to consider these things, and would have *Tuesday*.

Sir *Robert Howard*.] Are you afraid of any trick being put by the Money Bill? You are masters of every day, and of what is fit to be done.

Sir *Thomas Meres*.] Does any body imagine no other business but this Bill? If there was none, it could not be before *Monday*—Would have this Debate on *Monday*.

[The Debate was adjourned to *Monday* by consent.]

On the Lords Amendments to the Bill of Popery: “The Privilege of Peerage: Office of Inheritance, or for Life, granted by the King; or any of his Predecessors, to enjoy it, notwithstanding this Oath: Peers to take the Oaths the Parliament sitting only.”

Sir *Thomas Lee*.] Knows not how these Amendments may cohere; no man can carry the Bill in his memory. Would adjourn the Debate till the afternoon.

Mr

Mr Secretary *Coventry*.] It is reasonable, that people should look what coherence there is in the Bill, and he is for adjourning.

Mr *Vaughan*.] It is fitter to be considered before dinner than after—Would not debate it in a thin House in the afternoon.

Sir *Thomas Meres*.] “Public office” must be the issue upon tryal for the “petty offices”—He would please the Lords in it.

Mr *Powle*.] He cannot agree with the Lords, because it may make a Question, what a “public office” is—Takes not the King’s and Queen’s servants to be “public offices”—Knows not what rule of Law can determine it—Would not agree to “public offices.”

[It was rejected.]

On the Amendment of leaving out “the Queen’s and Duke’s servants.”

Mr Secretary *Coventry*.] The Queen has many Gentlemen that made no doubt of being with her; “the Queen’s servants,” in rigour, are “the King’s servants”—It will be a mighty affliction to the Queen—Many have been long with the King, and served him in great dangers with great fidelity; the King would be loth to have them taken from him.

Sir *Jonathan Trelawney*.] Would agree with the Lords Amendments “to the Queen’s and the Duke’s family;” to “the Test of the Doctrine of Transubstantiation;” would also agree with the Lords Amendments—The Duke has many Protestant servants, and most are so—Some Papists have been long with him, and in great dangers for him—The Duke has deserved well from this House and Nation, has fought two of the greatest naval battles, and exposed his person, and hopes you will not deprive him of his servants.

Mr Attorney *Montagu*.] The Queen, Consort to the King, and an alien, may have several persons of that religion, but the greatest number of them are Protestants.

Lord

Lord Cornbury.] Be pleased to remember, that the Proviso he brought in for "the Queen's servants," was not so happily worded as he could have wished the thing; the thing desired is so reasonable. Certainly if the Queen designed more Papists, she would have had them before now; the number is few, and they are persons of credit and merit; the King gives her liberty to chuse. As far the greater numbers are Protestants, so she is as kind to us Protestants, as to the Papists; therefore would agree—Her servants are sworn to herself in the Oath of Service; they also swear Allegiance to the King—Consider, that she brought a portion of five hundred thousand pounds into *England*, besides many other advantages.

Sir William Killebrew.] You will bring in more *Portuguese*, if the *English* Papists be turned out, and they will never understand one another how to serve the Queen.

Sir John Birkenhead.] Almost admires that any man would deny the Queen what he would not be denied himself—Should not we think it hard, if we should marry a Princess abroad, of our kingdom, that she should be denied the choice of her servants? Put it into the scale; it is the rule of the Gospel; make it any man's case—It will be hard otherwise, therefore would agree with the Lords.

Sir Charles Harbord.] This Queen has brought more to the Crown of *England*, than any six Queens before ever brought in money—She is a person of the most inoffensive carriage that ever was—The principal person about her is Lady *Suffolk*, and she is a Protestant—Knows not the rest.

Colonel Birch.] Is for the rule of "doing as we would be done by," but would know what we do—It is said, "most are women, therefore safe"—It is said, "that all her servants are sworn." Would have the roll of them brought, that those that are sworn, by such a day, may continue in.

Mr Attorney Finch.] Would agree, because it is a degree of severity this House never insisted on.
This

This House never questioned how far Articles of State or Marriage; never judged them—As your Address to the King is about the Proclamation, &c. natural-born subjects cannot stay—It is a degree of severity that never was before. She came over with expectation of other usage than barely Articles, and having had more, it is hard. The best part of her conversation being her Religion, this may put her upon a severity of giving no quarter to her Protestant servants—If you be for a certain time, you must not look farther back than this day—You have advanced far to a suppressing of Popery, when you have reduced people into a corner, where you may find them, and have them.

Mr *Vaughan*.] It is said, “that this of the “Queen’s servants” is a greater mark of severity than ever was before”—He thinks it one of the errors of the Long Parliament, that they went no farther with the “then Queen’s servants”—Our business is to add to the laws against Popery, and not to repeal them—If I come into *France*, I have civil protection; those that came into *England* with the Queen, under safe conduct, have so; but more *English* Priests than Foreigners, is against law—You do not hear of Murderers or Felons in *Newgate*, but a Priest is with them—Wishes the Duke had no Papists about him, they do harm; and would have all men here leave affections at the door.

Sir *Robert Carr*.] One has told you, how few Papists the Queen has in her family, and what encouragement Protestants about her have—The Queen desires not to increase the number of them—Putting the Queen upon this trouble may put her upon sending for *Portugal* servants, and put out the Protestant—Divers Papists have served the Duke at sea, and beyond sea—It crosses not your Bill; and other people cannot be encouraged to crowd under them.

Sir *Richard Temple*.] Your “adhering” in this point will cross your end for more Protestants—When the Queen sees these few removed from her, he knows not the consequence; Articles of Marriage are Law in all nations—

tions—If you agree not to this Proviso, she is put upon greater hardships than any other subjects, not to have whom she will about her—If you restrain it, would have it to those in ordinary only, and from such a time.

Sir *Thomas Higgins.*] The “Duke’s servants” you will reach under the notion of the “King’s servants;” they are sworn to him; they have fought for the kingdom with the Duke—We ought to pray God to inform the Queen, but you go about to lay an affliction upon her.

Sir *Robert Southwell.*] Hears of the Treaty the King has made with *Portugal* upon the Queen’s marriage; she has brought *Tangier* and *Bombay* in portion; she is successive, and her right entire to that Crown, in the *East* and *West-Indies*, very considerable.

Sir *Thomas Lee.*] Wonders to hear the “Articles of Marriage” called “Law,” and “that become Law”—We could not find the Declaration to be so. 3 *James*, 4 *chap.* The Parliament, in that preamble, thought the kingdom so unsafe by reason of the Papists, that they were confined within four miles of their dwellings, without leave; not to come to Court, by that Statute, unless commanded. And now you will let them, by this Proviso, reside in the Court, either of the King or Heir apparent—If once the hole be made, knows not how wide it will grow—Would keep the cloth as whole as we can.

Sir *Thomas Meres.*] You cannot mend the thing, for it is your own; no body has instanced but in the Queen; the argument of “Law” is given up as to “Articles” in that point; let us not, by Law of Courtesy, void another Law—We cannot give them greater encouragement.

Mr *Waller.*] “Do as you would be done by” is a current Law—A man may find fault with the equitableness of a Law—Why will you geminate a thing? His Highness does as much by example as precept.

Mr *Mallett*, *extravagantly interrupted him.*] Who said the Duke is under another notion than the Queen? He is a subject, and hath nothing to do with foreign Articles as the Queen has.

Earl

Earl of *Ancram*.] Would not make, nor destroy, Laws by a side-wind. If you discourage the Queen, you will make an exclusive Law, in effect, for the Crown never to marry one of her religion *, unless we may marry at home—The Queen's merit is so beyond his expression that he shall say nothing of it—Queen *Elizabeth* was a Protestant, and, besides having no reason to leave that religion, another title was set up against her by one of that religion; Papists her only enemies—Our Queen is of that religion; her example great to our religion—There is more a punctilio than danger in it, and he would agree with the Lords.

Colonel *Birch*.] If any Gentleman varies in his opinion, he tells you why—What he has heard now, “that Popish Princes must [not] marry with us hereafter,” must alter his opinion—*England's* ruin was dated from the time of such marriages—Hopes, that seeing it will have that good effect, that no Popish Prince will marry with us, it will be better than he thought of, and now he is more for it than before—Would not agree to that part of it.

Sir *Thomas Littleton*.] Thinks you may agree with the Lords *in toto*, in the “Duke's Proviso;” he being a subject, it causes no marks of singularity—You have desired that some persons may be rewarded by the King; “the Queen's servants” are the King's—This is not so—Would not have you receive a Law particularly *for* him, and would not have any thing particular *to* him.

Sir *Thomas Osborne*.] There is no Law for a “subject's” servants; the Duke is one, and moves that he may be in no other condition.

[The Amendment was rejected.]

On the Amendment of reading “Allegiance,” instead of “Obedience.”

Sir *Thomas Lee*.] The Oath of “Allegiance,” and “Obedience,” are two things; the Oath of “Allegiance” is given at Lects.

* Such a Law, very happily for *England*, has since been made.

Sir *Anthony Cope.*] Has heard of many Catholics that would take the Oath of Allegiance, but not of Obedience. 3 *James.*

Colonel *Birch.*] You may amend the Lords with an Amendment the statute mentioned, 3 *James*—Would have the Amendment referred to that statute.

[Agreed to, with this addition, “which Oath of Allegiance is contained in the Statute made in the third year of King *James.*”]

[On the other Amendment of leaving out the Clause against a *Non vult ulterius prosequi.*]

Mr Attorney *Finch.*] If you hope it in any information at the King’s suit, remembers not that the Attorney ever did it, because no end of it; if he gives not the *noli prosequi*, which is but two shillings and eight-pence, there are thirteen pounds for a pardon.

Sir *Thomas Lee.*] The thing is not pardonable, and so no charge of thirteen pounds for a pardon; takes the thing, that the person is disabled, from the time of conviction, for that office, or any other.

Sir *Thomas Meres.*] Remembers the last Session upon *ulterius non vult*, &c.—If an *ulterius* will void it, you have more reason to stick to it.

Mr *Vaughan.*] If the Oath and the Tests are not taken, the office becomes void for want of them, and entitles another to them—Presumes that of indictments the hardest part of the Bill, if upon information.

Mr Solicitor *North.*] In all penal Laws some part goes to the King, and the King cannot dispense with the Informer’s part.

Mr *Powle.*] It is a mistake in the Solicitor; many penalties, in Statutes relating to Popery, go not to the King, but to the Informer and Poor; and yet the information is *tam pro domino Rege, quam pro seipso*—Would be satisfied from the learned Gentlemen in this point.

Mr Attorney *Finch.*] Some little penalties, not worthy of observation, go from the King to the Informer and Poor; but scarcely an Act of consequence with that example—If *Dominus Rex ulterius non vult prosequi*, make what information you will; if a pardon be precedent, the

whole is pardoned, because no conviction of the offence—As long as Supremacy is in being you cannot restrain, though by the word Nuisance.

Sir Thomas Meres.] No man thinks much of the King's pardoning, but would hinder the King from importunities in pardons.

Sir Thomas Clarges.] In the Act of the eleven Months Assessment there are penalties the King has no part of, and five hundred pounds penalty for the receiver.

Serjeant Seys.] In *Henry VI's* time a great penalty about exportation of wool, and the King no party, was in the Informer only—A misreturn to this House, that the King has no share.

Mr Secretary Coventry.] Would not give encouragement to these men—Taking off the King's part of the penalty will make them think it is no offence against the King—Where the King and kingdom are concerned, it is fit the King should have his share.

Mr Powle.] Those are to be punished that come into places at Court without the Tests; and those may easily obtain pardons—The Sheriff gives damages to the public by a false return; and therefore it is a natural argument that the King's pardon is not pleadable in an action of debt brought against him for that false return, and he would have this so.

[The amendment was rejected.]

Saturday, March 22.

A Bill for uniting parishes within the city of *Exeter* [was read the second time.]

Mr Swynfn.] "All present tithes and profits," not mentioned in the Bill, what they are; besides the uniting seventeen parishes into eight, and contracting the maintenance of the Ministers and laying a new charge on the whole city—The great argument is, that so many agree to it—Patrons have good reason to agree; the presentations before were small, and now they will be greater; and the Mayor has reason, because the Corporation may levy money at pleasure; but what the inhabitants will do he cannot

cannot imagine—The Uniting concerns parishes, and that will extremely alter the case for levies for the Poor and all other parish concerns, especially considering that the Bishop's fee being there, the learned Prebendaries may be helpful to them without uniting them—Consider how many of the inhabitants are charged by chimney-money, trade, and excise, and whether you will lay another tax now? Agree to commit it “to unite, but not to lay any charge upon the inhabitants.” It will be otherwise a dangerous Bill.

Colonel *Strangways*.] This is “a dangerous Bill” for those that oppose the Church of *England*, that they may preach *placencia*—As before the presentation was forty pounds a year, by this Bill it will be a hundred pounds a year—Would not have bonds taken for resignation; if they do, would have them punished—The Churchmen, it seems, by this Bill have care of souls as well as trade. Dissenters would have inconsiderable men there that they may baffle them—There is no Law for the Dean and Chapter to officiate—Would commit it.

Sir *Lancelot Lake*.] You have taken off the imposition of twelve-pence a *Sunday* for absence from church—That is a far greater Tax than this Bill will be for maintenance, therefore would commit it.

[The Bill was committed.]

On the Lords Proviso in the Popery Bill; “The hurt of taking away any profit from a Peer in Parliament, or out of Parliament, &c.”

Sir *Thomas Clarges*.] Our Bill does in nothing take away Peerage, but upon such as are in any public offices; they are safe as to the Oaths of Allegiance and Supremacy, as they are Peers.

Mr *Vaughan*.] 'Tis fit for a Committee of the whole House.

[This Proviso was rejected, The rest were committed.]

Mr *Vaughan*, to the other Proviso.] Some are excepted by name in the Proviso; 'tis more for their honour to be thrown out now in the House, than at a Committee, with some reflection.

Mr Secretary *Coventry*.] There are many reasons why you cannot, during the war; many of these Gentlemen, named in the Lords Proviso, have been sent for from beyond sea, and have quitted good employments there—They are of great use here; good engineers and good officers; and some of these have been men sent for particularly for some uses—Sees not what end you can have in it.

Mr *Powle*.] Cannot agree with the Lords in this Proviso—Does not think it convenient to give allowance to persons we know not, without knowing the service they have done—They have openly boasted themselves the King's best subjects—It would give them too great an advantage—They are out of the Act; by this Proviso, as well as all others; such persons are in better condition than before, and they have given us the occasion of all this trouble by their employment.

Mr *Harwood*.] Is Colonel *Panton's* (one of the persons named) very good friend and old acquaintance. But how many Protestants have served the King, without any particular mark of your allowance, and will you give it these?

Mr *Milward*.] You make them in a worse condition than those that have fought against the King, by not passing this Proviso.

[It was agreed to, with some Amendments.]

On the Proviso of the Peerage.

Sir *Richard Temple*.] Every Baron, and so upwards, has a salary or fee from the King, in his patent of creation, then this Act will reach them; this Proviso is "singly, *quâ* Peerage" to be exempted from the Tests, and not to bring them under the notion of Commons.

Mr *Vaughan*.] The office of Great Chamberlain is now annexed to the Earl of *Lindsey's* family *, as formerly to the Earl of *Oxford's*.

* This office of Lord Great Chamberlain was laid claim to in the first year of *James I*, by *Robert Lord Willoughby of Eresby*, (afterwards Earl of *Lindsey*, and slain, when General of the King's forces, at the battle of *Edge-Hill*) grand-

father of the Earl here mentioned, and, after much dispute, judgment was given in his behalf, as being son and heir to *Mary*, only daughter to *John Vere*, Earl of *Oxford*. It is now inherited by his great grandson, the Duke of *Ancafter*.

Sir

Sir Thomas Lee.] Thinks that every man that takes employment, or office, and lives in the country, must go to the Quarter Sessions to take the Test; if our Session happens not right with our sitting here, he must go down into the country, unless you alter it to take the Test in the Chancery, or at the House door—Consider that it is not proper for both or either House of Parliament.

[The Proviso was agreed to.]

On the Proviso of “Grants for Life, Lives, or Years, on valuable considerations.”

Mr Powle.] “*Pro servitio impenso, or impendendo,*” a valuable consideration in Law.

Mr Milward.] Your care is for offices, and grants by patent are so; as for offices, a man hath given the King five thousand pounds for an annuity for life, or years; you may as well take away a man's lands—Would have it mended thus, “all grants that depend not upon offices.”

Mr Powle.] Is willing to comply with the Lords, as to their “Peerage,” but this comes to all persons whatsoever; your intention is to void all “Pensions”—*Impenso et impendendo*, was ever judged “a valuable consideration”—It destroys the Bill.

Mr Vaughan.] Any “Pension” that has *quid pro quo*, is “valuable,” which he would have allowed; but a man may have one for going into France—As for the *Pendrells*, who were instrumental in the preservation of the King after Worcester-fight, would name them particularly, but would not comprehend all by a general word.

Sir Charles Harbord.] You must save the estate, that is not the office, but not what is the office, plainly.

Sir John Birkenhead.] Moves for another person to be exempted, besides the *Pendrells*, that helped the King's escape at Worcester.

Colonel Birch.] Knows of no “Pension”—If other persons had not served the King more effectually than this person *Birkenhead* names, things had not been at this pass—Let him give a list of names, and he will be for it.

Mr Secretary *Coventry*.] A man that has a title to an estate, and has resigned it, will not you allow that?

Sir *Thomas Osborne*.] Lord *Kinnoul* had a right in *Barbadoes*, and for his resignation the King has given him one thousand pounds a year—Do you intend that this Act shall deprive him of it, under the notion of a “Pension?” It will not stand with your justice to do it.

Mr *Garraway*.] You have all things in prospect, not in retrospect, but the scheme of your Bill is to take off “*Irish* Pensions.” That we may be rid of them, the King may give them money instead, and be rid of them.

Mr Attorney *Finch*.] There are “Pensions” of several sorts; there may be for life on “consideration,” and some may be disabled from offices, where Pensions are Salaries for executing of offices—Thinks that humanity will be better for your reputation, than severity will be to your wisdom, in annulling these Pensions.

It passed in the negative, and was thus amended; “other than valuable and sufficient considerations.”

On the Clause in the Proviso of “Offices of Inheritance.”

Mr *Powle*.] Likes not the Clause of making a Deputy *ad libitum*, to put out and in every week, if they please them not—Would have the words, “at their will and pleasure” left out, and have it, “as the King shall think fit.”

Colonel *Birch*.] A Deputy, the less dependence he has, the better he does his duty—If beyond sea or sick, it is fit the person should have his Deputy; but to do it “at will and pleasure” makes it a more than ordinary dependence.

Sir *John Duncombe*.] A man may be ruined, and his posterity, being an Office of Inheritance, since, by fault of the Deputy, the office may be forfeited; therefore it is reasonable he should appoint his Deputy himself.

[It was agreed to.]

The other part of the Proviso, “Untill such persons shall take the Test, and subscribe in Chancery,” &c. agreed to.

On the last part of the Proviso, “The Lords in Parliament time,

time, to take the Oaths and Subscription in the Lords House, and out of Parliament, in the Court of Chancery."

Mr *Powle*.] The taking it "in the Lords House," knows not how proper that may be.

Sir *Richard Temple*.] "The Lords House" is a new word; would have it, "Peers sitting in Parliament"—Would have "Lords House" out of the Question.

[It was amended accordingly.]

On the other part of the Proviso, "and those Subscriptions recorded," and on the Proviso "for persons beyond the Sea, or *non compos mentis*, or any married woman, not till after the death of her husband; persons at their return from beyond the Sea to take the Oath, at or before Trinity Term, 1673."

Mr Attorney *Montagu*.] Would have it "four months" after the said incapacity of taking the Tests.

[Agreed to.]

Sir *Thomas Clarges*.] If they live always "beyond Sea" will you not have them return? The Act may be too severe.

[Proviso, the consequence of the last, agreed to.]

Proviso "For the Earl of *Bristol*, 16 July, 1669, a Pension granted him in lieu of a Debt, expressed in his Patent."

Mr *Powle*.] In the former Proviso this is agreed to; but is contented; Lord *Bristol* being none of those busy men he hopes to meet with in this Act, and therefore would agree to it.

It passed *nemine contradicente*; and the House would scarce with patience let any man speak for it, but if against it, he might.

On the Proviso "of the office of Head Constable, Petty Constable, Headborough, &c. Steward of Court Leet and Baron, County Court, or Law Court, &c. Forester, Keeper of a Park, and Bailiff of a Manor."

Sir *Thomas Clarges*.] Would have them take it at the next Quarter Sessions.

Sir *Charles Harbord*.] They may be so many thousand people, and very inconvenient.

Mr *Garroway*.] Would have them take the Oath—If people will refuse the Oath, let them forfeit a sum of money, and not be wholly disburdened from Offices.

Sir *Thomas Clarges*.] About *Wesminster* they will be glad to have the Offices, that they may not make any Presentment, and so have never any Presentments made.

Sir *Richard Temple*.] By “Bailiffs of Manors,” not meant that private men’s Bailiffs should come to this Test.

Colonel *Birch*.] “Bailiffs” may be Officers of Manors to return Burgessees of Parliament.

Mr *Powle*.] Assures you he sits here by return of a “Bailiff of a Manor.”

[“Bailiff of a Manor” passed in the negative in the afternoon.]

Lord *Cavendish*.] Much of this Session has been spent to prevent the growth of Popery, and to take care that money may be raised for the King’s supply; therefore would have his Majesty moved that it may not be disposed of, nor managed by [the Lord Treasurer] a person * so much suspected of Popery.

Mr *Sacheverell*.] You have been well moved—As the case now stands, we have struggled whether Protestant or Papist shall get uppermost—You are raising money, and we know into whose hands it is to come; one whom common fame renders one of the greatest favourers of the Popish interest of any man, and how secure in his hands we all know—Knows not how safe the King’s person may be, when so considerable a sum of money shall be in such a hand; and if neither the King nor kingdom can be safe, we can do no less than move the King to remove such a person of danger from his presence, and such a trust—Has no desire of ruining any man, but the thing being of such importance, desires the King may be moved in it.

Colonel *Sandys*.] “Common Fame” brought Lord *Sirafford*’s fall—To the day of the death of the King,

* Lord *Clifford*.

the Martyr, he was troubled at it—Moves that we may go off with all the calmness that can be, we being assured of the King's goodness to us.

Sir *John Birkenhead*.] Consider this "fame"—The person inclinable to Popish Faction—For that "fame" the Archbishop of *Canterbury* [*Laud*] lost his life; but the Papists rejoiced at it—This person can give you no more assurance of his Religion than the Test—'Tis of dangerous consequence to blast this person for rumour in the street, and would have the motion go no farther.

Sir *William D'Oyley*.] Would have Reformation of Manners, but no destruction of persons—You know his behaviour here, and how bravely abroad; he need say no more—The danger of him is not so considerable—The King must know every minute sum; and the King concerns himself in all things of the Treasury—Let the Motion die here.

Sir *Edmund Wyndham*.] Justifies the Treasurer, as to his religion; he has taken all the Tests in being; the Sacrament he has taken with him.

Sir *John Barnaby*.] Hears only "common Fame" that you are told of, and that is no ground—He sees him at Chapel most *Sundays*; and would have the thing laid aside and go to other business.

Mr *Mallet*.] This Motion proceeds from noble ends—He points not at the person, but the Motion—It is for the disposing of money, and we are to see it well disposed of; and now is the time to consider, whether you will put this money into such hands—The person has not been named, but described—"Common Fame" is infallible—(*laughed at.*) Consider, these jealousies cannot arise out of nothing—Your money comes upon hard terms now—No Parliament ever exceeded this in liberality—It is worth your enquiry how this money shall be disposed of as you would have it—You do not act prudently if you put it into a person's hands that affects not our religion—If there be violent presumption upon him, you must secure your religion, and you will act as wise men, and not furnish your enemies—For want of information

mation he informs you, that the Treasurer said, in the House of Lords, "that your Bill of Popery ought to be spurned out of that House as a dirty Bill"—You ought to look to your safety.

Sir *Lancelot Lake*.] "Common Fame" is a terrible lie; you have given the King the money, and cannot alter any thing in it.

This Business passed no farther, than privately blaming and reflecting on persons who engaged to second the Motion.

Monday, March 24.

The Bill of General Naturalization [was read a second time.]

Sir *Richard Ford*.] This Bill exposes the great immunities of Corporations to be prostituted.

Mr Secretary *Coventry*.] Supposes you do not intend, by this Bill, that every Gentleman shall set up what trade he pleases when he comes over—It is said, that Papists may come in by this Bill; you may, to prevent that, put in "Transubstantiation" for a Test—The King has been at great charge this war—It was looked upon, at the beginning of the war, to invite the *Dutch*; and should this Bill be thrown out, you will discourage them here and send them to the *French*—He shall not by this Bill be entertained in a town as a poor man—A *Hollander* told him, "If we were certain of a Peace, he could bring over four thousand men, much to the advantage of your cloth and other manufactures trade."

Sir *George Downing*.] Most of our manufactures came from *Holland*—He is against their being Freemen in Corporations—If a native must come through the difficulties of a seven years apprenticeship, would not have a town filled with foreigners—But to trades you want would give them encouragements by Freedoms; as Packers of Fish, Gold and Silver-workers, Dyers and Copper-makers, and would have such reserved from the Penalties of 1 *Elizabeth*, of being indicted for not serving seven years to a trade—Many *Hollanders* get themselves

selves naturalized, or denifoned, and trade here all summer, and then in winter go to *Amsterdam*, with what they get here—Would have great care taken of that in the Bill.

Mr *Boscawen*.] They that come in will be Merchants and moneyed men, who will be willing to get an Act for Naturalization—You have more Merchants already than you have trade; you want them not for more shopkeepers: You have so many natives, they eat out one another—For Artisans, they may be useful to you; the greatest want of all is of them, and would have the Bill for the encouragement of them.

Sir *John Duncombe*.] Thinks it a good Bill, but to be committed, with care to be taken, if, after Naturalization and the Oaths, they go not away back from you, and stay neither here, nor in the Plantations—Would have them taken care for to stay; if they go away, to lose their Naturalization.

Sir *Lancelot Lake*.] Anciently, in matters of great weight, we went home to our country to advise with them—He would have that now done.

Mr Attorney *Finch*.] Before commitment of the Bill, would well consider, whether possibly a good Bill may come out of this—Naturalization makes any man equal in privilege to original birth, in the kingdom of *England*—It is not here as in the *Roman* State, when admitted a long time to the first degree, and some good distance of time before they were capable of offices—You at one blow beget so many foreigners to be *Englishmen*—This Bill admits any Protestant born under any Prince or Potentate; in this you make all the world Merchants of *England*; you grow an opulent nation; that supplies your industry and luxury—Lead, wool, and tin, you give them an opportunity to export—By this Bill, all your *Turkey* trade is destroyed in a moment—He that brings salt, is immediately entitled, by that little commodity, to trade and export your commodity; he may live cheaper than you, and truckle with the *French* Consul in *Turkey*, and you shall be but Factors, and stay at home—

home—Wonders that now we are naturalizing all the world, no part of the world naturalizes us—You, Aliens every where, and they naturalized here—If once they are at home here, where will be the distinction between the *English* and *Dutch* manufacture? Your lead, wool, and tin, are your *Indies*; no imposition upon them to stay here with a family; not one line to fix them, neither Oaths nor Tests—It makes them natural subjects, and, unless you otherwise provide, free of Corporations—Your ancestors, in Queen *Elizabeth's* time, knew two-thirds of *England* destroyed by the plague, and yet they had no thoughts of Naturalization—You will find them suck your blood—They destroy Common and Statute Law—You make them Gentry and Nobility—You bring people not to make you rich, but to starve the poor—How comes it to pass, that you think fit now to change your Government, and all your municipal Laws, and all at the charge of your estates and understandings?—Would have many years to consider of this Bill.

Colonel *Birch*.] It is not fully expressed, but intended, in the Bill, that they should reside here—That which he admires, is, that many *Turkey* Merchants are in the House, and they say nothing in this business; they cannot speak so well as the Attorney; but he would take it ill, if they should speak in his trade as he does in theirs—We had all our arms first from *Germany*; fustians and silks all came from abroad, ninety parts out of an hundred—But if we must stick to our forefathers opinion, he is outdone—If the Scriptures be true, that *a multitude of subjects is the glory of a King*, this is a good Bill.

Mr *Waller*, to their coming in poor upon our Poor.] King *James* desired an Union with *Scotland*; the Parliament denied him nothing, but granted him not that; but the Lawyers found out a way of the *post nati*—They are an *alterius nos*—There was no danger then; now they must either come in with stocks, or go to the house of correction—We have had plague and war, and civil war, and have peopled *Ireland* with an hundred thousand souls—Forty shillings a year, when he was a boy, was a
good

good servant's wages; now in *Buckinghamshire*, eight pounds a year, and are forced to send thirty miles for reapers, and fellers of wood—We labour under a paucity of people certainly—No man was ever denied Naturalization here, paying his fees—That which was said by the Ancients, of the “vivacity of youth and wisdom of age,” (*complimenting the Speaker*) is in you; you want not the Fees of Naturalization-Bills in your fortunes, and would have a mark of honour upon you, whilst you are Speaker, for doing it*.

Mr *Vaughan*.] He remembers not the reason of the *post nati*, but thinks it because under our Allegiance—Is against reading the Bill again; the most destructive thing in the world to your Interest and Government.

[The Bill was committed, in the afternoon, 108 to 61.]

Tuesday, March 25, 1673.

Mr Attorney *Finch* reports from the Conference with the Lords, on the alterations of the Lords Amendments, that they are content to lay aside the Proviso of “exemption of persons named;” they agree to all parts of the Bill, and the variations. The Earl of *Anglesea* only managed the Conference, who told us how ready the Lords were to comply with us in so important, good, and seasonable a Bill, sent them by this House. They agree to the “servants of the Duke of *York*.” They would not have “the Queen” pressed in reference to “her servants,” because both Houses would vary in their late Address to the King about Popery, “such as are obliged to attend the Queen;” and it would infringe the articles of treaty between the Crown of *Portugal* and this Crown, the Queen retrenching those articles in taking two thirds of the King's subjects to attend her, whereas she might have taken all Papists and foreigners; this great moderation of the Queen deserves respect from both Houses. As to our reason, “that their attendance upon the Queen would occasion great resort of Papists to Court,” because the “Duke's servants” are left out of the Bill, half the reason is accommodated. The *noli prosequi*, the Lords would have, &c. the Lords thought the leaving out this Clause would make it more easy to offenders; because the Attorney General is not obliged to prosecute, or so faintly,

* Alluding to the Speaker's giving all his Fees of private Bills to the Poor of *St. Giles's* parish, in which he lived.

that it might come to nothing ; it might be an advantage to the King ; suppose prosecution, and, it may be witnesses not ready, and so you prosecute the delinquent to absolution. Should the Attorney be bound to prosecute always, it may be the restraining the discontinuance of the offender, and he might plead it in Bar, and it would suppress the knowledge, whether the party be the offender, or no, and so frustrate much of the end of this Bill.

[To the Amendment of “ including the Queen’s servants.”]

Mr *Waller*.] Puts you in mind of the great honour his Majesty did this House, and the kingdom, in communicating his design of marrying the Infanta of *Portugal*, and would have our acknowledgment to him, for communicating it, read ; we had the greatest honour upon this occasion that the King ever did us—We knew her Religion then, she *forgets her father’s house* ; it is a great advantage to us to have a friend ; let us make one in his Royal Bed, as we would do in the Lords House, or of those that are near him.

Mr *Garroway*.] Has as much tenderness for the Queen as any man, though he cannot so well express himself ; but in this would know what he did—Would add the words, “ her *now sworn* servants.”

Mr Secretary *Coventry*.] In former marriages, the articles were none, but such as of her Religion ; there are very few [servants] of her Religion, and they are mortal—Would you have none Catholics after them ? Would have liberty, that their places may be filled up.

Lord *Cornbury*.] She has not above eight Papists, servants, and admits Protestants into her service, without asking any questions.

Mr *Powle*.] Would willingly agree with the Lords, if the thing brought no inconvenience with it—Wishes some temperament, that the Lords might have added, “ it is not only for this present Queen, but for all future Queens”—Would not have any articles of marriage to abrogate the Laws of *England*—Thinks it an omission (with deference) in the Lords of the Council, and managers of the business.

Sir *Thomas Lee*.] You are told “ the Queen’s servants are few,” but would know what security you may have for

for the future, that they shall be no more—Knows not what number this may increase by your countenancing it.

Lord *Cornbury*.] Has reason to believe, that there will be no increase of the number; there has been none these eleven years; they have their places during the King's pleasure, and no danger in it.

Colonel *Birch*.] Reasons of our disagreeing are parliamentary at a Conference—The succession part will make an occasion of taking in Papists; because for eleven or twelve years she has been very quiet, many will be removed now upon the Act, and they will press to be put into the Queen's service.

Mr *Vaughan*.] All his good wishes to the Queen cannot make a digression from his duty—She must have persons to attend her; she comes not hither to change her Religion; but why must she have her trust reposed in Papists? The King and she will draw two ways in interest—Shall we repeal so many Laws in a compliment? It is against the King's interest, and your duty, and would not agree with the Lords.

Mr *Sacheverell*.] Remembers that the Address to the King has reference to the Priests, and that is a reason why we should not agree—Supposes the articles of Marriage do not give a liberty to *English* Priests.

Mr Attorney *Montagu*.] If any *English* Priests stay, their lives are not safe, and they will not stay—Thinks we may agree.

Mr *Vaughan*, with leave, spoke again.] Mr *Harwood* said, "we strain at this, when we did not at a greater thing;" would know the meaning of it.

[Agreed to, severally, with the Lords.]

[In the Afternoon.]

Mr *Powls* reports from the Committee the Address to the King concerning the *Irish* Grievances, which was agreed to, and is as follows:

"WE your Majesty's most loyal Subjects, the Commons in this present Parliament assembled, taking into consideration the great calamities which have formerly befallen your Majesty's kingdom of *Ireland*, from the Popish Recusants there, who, for the

the most part, are professed enemies to the Protestant religion and the *English* Interest; and how they, making ill use of your Majesty's gracious Disposition and Clemency, are, at this time, grown more insolent and presumptuous than formerly, to the apparent danger of that kingdom and your Majesty's Protestant subjects there; the consequence whereof may likewise prove very fatal to this your kingdom of *England*, if not timely prevented; and having seriously weighed what remedies may be most properly applied to these growing distempers, do, in all humility, present your Majesty with these our Petitions:

“ That, for establishing and quieting the possessions of your Majesty's subjects in that kingdom, your Majesty would be pleased to maintain the Act of Settlement, and the explanatory Act thereupon; and to recall the Commission of Enquiry into *Irish* affairs, bearing date the 17th of *January* last, as containing many new and extraordinary Powers, not only to the prejudice of particular persons, whose estates and titles are thereby made liable to be questioned, but in a manner to the overthrow of the said Acts of Settlement; and, if pursued, may be the occasion of great charge and attendance to many of your subjects in *Ireland*, and shake the peace and security of the whole kingdom:

“ That your Majesty would give order, that no Papist be either continued or admitted to be a Commander or Soldier in that kingdom; and, because the *Irish* Papists have furnished themselves with great quantities of arms, that your Majesty would please to give directions so to disarm them, that they may not be dangerous to the Government there, and that their arms be brought into the public magazines:

“ That the like order may be given, that no Papist be either continued, or hereafter admitted to be Judges, Justices of the Peace, Sheriffs, Coroners, Mayors, Sovereigns, or Portreves in that kingdom:

“ That the titular Popish Archbishops, Bishops, Vicars-General, Abbots, and all others exercising Ecclesiastical Jurisdiction, by the Pope's Authority, and, in particular, *Peter Talbot*, pretended Archbishop of *Dublin*, for his notorious disloyalty to your Majesty, and disobedience and contempt of your Laws, may be commanded, by Proclamation, forthwith to depart out of *Ireland*, and all other your Majesty's dominions, or otherwise to be prosecuted according to Law; and that all Convents, Seminaries, and public Popish Schools, may be dissolved and suppressed, and the regular Priests commanded to depart, under the like penalty:

“ That no *Irish* Papists be admitted to inhabit in any Corporation of that kingdom, unless duly licensed, according to the aforesaid Acts of Settlement; and that your Majesty would be pleased

pleased to recall your Letters of the 26th of *February* 1671, and your Proclamation thereupon, whereby general licence is given to such Papists to inhabit in Corporations there.

“ [That your Majesty’s Letter of the 28th of *September* 1672, and the Order of Council thereupon, whereby your Majesty’s subjects are required not to prosecute any actions against the *Irish*, for any wrongs or injuries committed during the late Rebellion; may likewise be recalled.]

“ That Colonel *Richard Talbot*, who hath notoriously assumed to himself the title of Agent of the Roman Catholics in *Ireland*, be immediately dismissed out of all command, either civil or military, and forbid an access to your Majesty’s Court.

“ That your Majesty would be pleased, from time to time, out of your princely wisdom, to give such farther orders and directions to your Lord Lieutenant, or other chief Governor of *Ireland* for the time being, as may best conduce to the encouragement of the *English* Planters, and Protestant interest there, and the suppression of the insolences and disorders of the *Irish* Papists.

“ These our humble desires we present to your Majesty, as the best means to preserve the peace and safety of that your kingdom, which hath been so much of late endangered by the practices of the said *Irish* Papists, and, particularly, of the said *Richard* and *Peter Talbot*; and we doubt not but your Majesty will find the happy effects thereof, to the great satisfaction and security of your Majesty’s Person and Government, which, of all earthly things, is most dear to us, your Majesty’s most loyal and obedient Subjects.”

Mr *Powle* also reports the following Address to the King, about Grievances in *England*.

“ WE your Majesty’s most loyal Subjects, the Commons in this present Parliament assembled, conceiving ourselves bound in necessary duty to your Majesty, and in discharge of the trust reposed in us, truly to inform your Majesty of the estate of this your kingdom; and, though we are abundantly satisfied, that it hath always been your Royal will and pleasure, that your Subjects should be governed according to the Laws and Customs of this realm; yet finding, that, contrary to your Majesty’s gracious intentions, some Grievances and Abuses are crept in; we crave leave humbly to represent to your Majesty’s knowledge, and to desire,

“ That the imposition of twelve-pence a chaldron upon coals, for the providing of convoys, by virtue of an Order of Council, dated the 15th of *May*, 1672, may be recalled, and all bonds, taken by virtue thereof, cancelled.

"That your Majesty's Proclamation of the 4th of *December*, 1672, for prevention of disorders which may be committed by soldiers; and whereby the soldiers, now in your Majesty's service, are, in a manner, exempted from the ordinary course of justice, may likewise be recalled. And whereas great complaints have been made, out of several parts of this kingdom, of divers abuses committed in quartering of soldiers, That your Majesty would be pleased to give order to redress those abuses, and, in particular, that no soldiers be hereafter quartered upon any private houses; and that due satisfaction may be given to the Innkeepers and Victuallers where they lie, before they remove. And, since the continuance of soldiers in this realm will necessarily produce many inconveniences to your Majesty's subjects, we do humbly present it, as our Petition and Advice, that, when this present war is ended, all the soldiers which have been raised since the last Session of Parliament may be disbanded.

[“That your Majesty would likewise be pleased to consider of the irregularities and abuses of pressing soldiers, and to give order for the prevention thereof for the future. And although it hath been the course of former Parliaments to desire redress in their Grievances, before they proceeded to give a Supply, yet we have so full assurance of your Majesty's tenderness and compassion towards your people, that we humbly prostrate ourselves at your Majesty's feet with these our Petitions; desiring your Majesty to take them into your princely consideration, and to give such order for relief of the subjects, and the removing these pressures, as shall seem best to your Royal wisdom *.”]

[This was also agreed to by the House.]

* It is worthy observation, that the grand points of “the irregular Writs,” “the War,” “the Alliance with *France*,” and “the shutting up of the Exchequer instead of applying for the advice and assistance of Parliament,” are not so much as mentioned [in this Address:] and that in the introduction to these articles are many tender expressions. Now supposing it was necessary, for decency's sake, to presume, that the King was ignorant of measures transacted in his own name, and well disposed to govern as he ought, it could not be presumed that these measures had

no Author nor Adviser; and that these Abuses and Grievances had crept in by chance: Notwithstanding which, instead of tracing the evil to its source, and making a wholesome example of the wicked Ministers, who had so notoriously misled his Majesty, and aggrieved and endangered his people, they suffered “An Act of Grace,” (which was so worded, as to contain an absolute pardon of every offence against the State before the 25th of *March*, 1673) to be brought in, and passed; which put them out of the reach of justice for ever. *Ralph.*

Mr

Mr Vaughan, to the Lords Concurrence to the Address.]
It will look like having no complaint of Grievances, for the future, without the Lords—Hereafter, if any great man be impeached, we may be put to it, and it may sometimes make them Judges of our Laws and Liberties.

Resolved, That the Addresses be presented to his Majesty; and that those Members of the Council that are of the House, be desired to know his Majesty's pleasure, when this House shall attend him with the Addresses concerning Grievances.

Wednesday, March 26.

His Majesty's Answer to the Addresses of Grievances, as reported by the Speaker :

“THAT he observed the Address did consist of many different parts; and therefore it could not be expected there should be a present Answer; but for the several particular things contained in it, he would, before the next meeting, take such care, that no man should have reason to complain.”

Ordered, That the Thanks of this House be returned to his Majesty, for the often accesses they have been admitted to his Majesty's person, and for his most gracious Answer to the several Addresses of this House; and, particularly, for his last gracious Message, and for the care he hath declared he will take of the Protestant Religion.

[*March 27, omitted.*]

Friday, March 28. Good Friday.

Debate on the Lords Amendments to the Bill for Ease of Dissenters, with a Clause in the Bill of the King's power of issuing out Proclamation, if he saw cause, either of Liberty or Restraint.

Sir Thomas Meres.] Issuing out the King's Proclamation is a Law fairly of Impunity, and so we make it, and no otherwise; the Proclamation is the same in effect as the Declaration.

Mr Powle.] If Liberty to Dissenters be granted, and it may be recalled by Proclamation in the King's power, they are not sure they shall have Liberty; and who will lay out his money for stock, or trade, that must be in perpetual

doubt and danger? And you will have no effect of the Bill?

Mr *Garroway*.] If they must live here, this is a pernicious way, you can never hope for any fruit of Naturalization—This Proclamation sets all backward, and may make it a thing mercenary, or by friendship—If abused, the King may be free to take it away—Would agree as soon to lose the Bill, as have it.

Sir *Thomas Littleton*.] He likes the Lords Amendment as well as any thing in the Bill—It is necessary, in this manner; you do, by this, trust the King with the peace of the kingdom; it has had good effect already in the King's power, when the Declaration was issued out—Are they not at uncertainty in *Holland*? The supreme power there, in a quicker way than we, can take their liberty from them—This is a thing settled in the King, and will startle nobody; the power, in the King, of doing or not doing, settles the minds of men, and is the best thing in the Bill.

Mr *Vaughan*.] We ever condemned the form of the Declaration, though the matter we accepted—This Proviso establishes the form of the Declaration; the security of Property is the greatest security for Religion, and all you have—Your Bill is but temporary, and the best purse, or the greatest favour, may purchase Dispensations from Court, or from *Rome*.

Sir *Edmund Wyndham*.] This is but publishing a new Law by Proclamation, and no more.

Sir *Richard Temple*.] You say you would be contented the King should recall it, and you put it out of the King's power, if you reject the Proviso—It says, "the King may declare Impunity by Proclamation, not to any particular person"—It is not as the Declaration; there is much difference between a thing done by Proclamation when you have a Law for it, to empower the King to do it—It is the only expedient that can be thought of.

Lord *St. John*.] It is the intention of the Bill to bring people and manufactures into the nation, and to keep those here we have—Who will stay when indulgence is uncertain

uncertain, and not by a Law?—He is against all Laws that shall make Proclamation as good as a Law—Moves not to agree.

Colonel *Birch*.] This Bill has had one or two fair escapes, though this has the least need of it—A point left out in this Bill he would not willingly lose; the King's power of suspension; what is due to the King he would have him to have—Knows nothing in the Clause but what you may accept of—Looks upon it, that if you agree not to the Lords Proviso, you may as well lay aside the Bill; every Gentleman can reflect upon what he would have, and what he has already—Would agree.

The Speaker, *reproving Gentlemen for noise*.] It is against the rules of the House to speak on one side the House, and talk on the other.

Colonel *Strangways*.] Would endeavour to remove one argument of the King's having all the Thanks; it is the King makes the Law; it is before but an embryo; our making Laws is now out of doors, (*reflecting on Birch*.) The inducement to promote this Bill is, that, otherwise, they are subjected to all the Laws in force—It is not only to Protestant Dissenters, but this Proviso of the Lords extends to *Turks, Jews, Socinians, &c.* it is so general: You by this set up a shop of indulgences and offices, and the people must pay dear for them; and the next Session we may spend half our time in disputing the King's power again; and he would not agree.

Sir *Robert Carr, to the setting up shops*.] When the indulgences were granted, nothing was given for Licences but to the Under Clerks—It is for Presbyterian subjects only, and would not agree with the Lords.

Sir *Robert Howard*.] The King did do it by his Declaration, and now he will not, because the Parliament dislikes it; he will not retract from a thing; he would have done it if the Parliament had liked it—Would make the King the product of what is proper to him in this business. Statute of *Elizabeth* and *Edward VI.* The King has ecclesiastical matters put into him as the conduit of conveyance; if the King has any power, it is in ecclesi-

ecclesiastical matters—The Parliament thinks fit that something of Ease be given; but by whom? Can you avoid the conduit-pipe? Must we avoid the King in this? Consider then, whether the Lords Proviso is not more parliamentary than what we sent them up—If this House was put to it to define the Prerogative by Law, it has always been the care to define it; too much or too little—Some body must be in trust still for the peace of the nation; he has been seven years of the opinion for Ease to Dissenters—A narrow Act will not attain your end; but some [will be] pleased, and many displeased; by this Proclamation you may do what you most wish, for all persons—Lord *Coke* was no friend to Prerogative, and yet granted the King a provident relaxation of ecclesiastical matters.

[Sir *Thomas Lee*.] Cannot agree with the Lords—It looks to him, as if it gave an opportunity to give the King a power he never had before; like the power in *Ireland* to the Lord Lieutenant about Corporations—We do we know not what, that you should make so many subjects have a dependence that others have not—The Church of *England* will be lessened by making more have dependence on this Proclamation—Would have persons dependent on the Crown, that we may all have the same common interest—You are told “it is so in *Holland*, because the opinion of the Government is for it;” but our Government is otherwise; their opinion is according to their Government, and something more goes to law-making here than there—If you put it to the Proclamation-power, we see several parts of the kingdom, and can represent their opinions; the King must have information; *pro hic et nunc*, and no where better than here—Men are never undone all on a sudden; this may draw strange consequences—The King is supreme Judge, but still according to rules and methods of law—Knows not to whom this may reach; the Proclamation may have the force of your enacting clause, which you can never foresee.

[Colonel *Titus*.] When you were angry at the Declaration, it was at the manner, not the matter of it—If
this

this Law of Ease be lost, it will occasion great inconveniences; the Preamble of it is such a concession as you would not be willing to lose—How can you remedy the inconveniences of this Bill, if you give no power to redress it? It is convenient that the King ought to have the Thanks of it—Some men behave themselves very ill, others very well; the Law being equal, it cannot be distinguished; “the King may,” some say, “who knows that the King will grant it?” The Dissenters have had it already, and need not mistrust him—It is said that all people are not upon the same foot; he would not have Dissenters to be so, but would have the Church in its full establishment.

Mr Secretary *Coventry*.] We are yet ignorant of their numbers and their disposition, but when they have their liberty established by Law you may know both, but can help neither—A Criminal depends more upon the King than he that is not, and so the Church—It goes through all your Corporations; and to be established without correction, he knows not the consequence—The Churches of *Holland* have no more foundation, if not *Calvin*, than a Mountebank; by the Union of *Utrecht*, no established Religion but the rites of *Calvin*; their toleration is rather a countenance. Mr *Biddle*, a Minister of the Church of *England*, Presbyterians, Anabaptists, *English*, countenanced, but not tolerated there—Our Church was shut up there; you can never suppose the King can keep up the Church without Bishops.

Mr *Waller*.] That power you give the King is by yourselves, and only temporary, and never intended as an indulgence—As soon as they have the Law, they have the Law, as well as to go to Church—Possibly when Laws are made, they are for neither of the three States sake, but for the peace of the kingdom—If argued *à majore ad minus*, the King calls a Parliament, and dismisses them; makes Peace and War: You give no greater power than this—If a Coachman can neither restrain his reins, nor slacken them, and be tied to the box, he would drive scurvily—Suppose any inconvenience in

the kingdom, the King can neither streighten nor slacken the reins, and can never be able to govern.

Mr *Harwood*.] Wonders that any man will put the King to the trouble of solicitations of all sorts of people; a trouble, he hopes, you will never give him—Mr *Waller* is free with the King, in his comparifon of a Coachman—Thinks the King would be at a losſe to drive without the help of the Law.

Mr *Milward*.] Wiſe Phyſicians give phyſic that they may correct—This ſeems an experiment; if of good effect, it may be continued; if not, the King may reſtrain it.
21 *James*, chap. 10.

Sir *Charles Harbord*.] To give that liberty, by Proclamation, for no more than the Law gives, he ſees no inconvenience in it; the perſons are ſo inconfiderable, that, without ſome indulgence, you will make the King and kingdom weak, and he would agree with the Lords.

Mr *Swynſin*.] 'Tis a thing of great weight, and we are in great ſtreights about it. If this had been at the beginning of the Seſſion, we had time enough; therefore is for that now, that, if he had time, he would not be for—Thoſe that would not have the Law put into the King to give life and effect to it, yet find it neceſſary; the King may take it away, which is a larger power, than to give him power, by Proclamation, as large as making a Law—If this indulgence be ill uſed, here is Law againſt them, and they are viſible perſons—All conclude ſomething would be neceſſary, but all this while nothing has been done, but that the ſevere Laws againſt theſe Diſſenters may be let looſe—This lies before him now, whether they ſhall have all Laws let looſe, or have nothing, there being but to-day and to-morrow to ſit; thinks it fit to agree with the King's gracious and merciful intentions to theſe people.

Serjeant *Seys*.] Will any diſlike a Liberty, becauſe it comes by Act of Parliament? Does any Act paſs without the King's liking it? Can any man define what reſtrictions and latitude the Proclamation will have? And doubts will ariſe whether according to the Act, and raiſe ſuch
Questions

Questions that the people will not know what to do—We have seen the effect of the Declaration ; it had good effect upon some, and bad upon others—Would not agree with the Lords ; but if the people make an ill use of this Act, the King may restrain them.

Mr Powle.] This parting with the Legislative Power out of our hands, there is scarce a precedent for—Knows but one—The giving the Legislative Power into a few hands will alter the Government—In *Henry VIII's* time Parliaments were in great submission to the Crown ; and yet, in those times, when the Power of the King was greatest, they trusted him not with such a Proclamation—*Wales*, at that time, was separated from *England*, and then the King had such a Power ; but no man can show him, it ever was in *England*—The argument of *Holland*, so often exploded, here weighs no more with him than street and coffee-house talk—If this number of Dissenters be so great, does it not give, in effect, a Tax upon them, which, by Proclamation-Power, they may buy of the King, and so a greater Tax upon the nation than is already granted ; but he sees no danger of the King's suppressing them, if disorderly—We know how to lay things equally upon the people, and we put it out of our hands, by this Proviso, into the Privy Counsellors, who, with submission, are not so competent judges as we are.

A Bill for the King's general and free Pardon was sent from the Lords*.

Mr Powle, *before it was read.*] Knows that general Pardons have been inspected by some persons of the House, to see how far they extend, and whether greater or less than former Pardons ; and would have it lie till to-morrow morning upon the table.

Colonel *Strangways.*] The Fast of *Good Friday* is *usque ad vesperem*, and he would not sit any longer.

Mr Powle, *to the Question of reading it now.*] Would have something considered before this passes—No Officer

* This Act of Grace was desired chiefly to cover the Ministry, who were all very obnoxious by their late actings. *Burnet.* See p. 162. Note.

shall issue out Writs of Election after the last day of Session of Parliament, for now we have an adjournment for six months, and all those Writs may be issued out, and yet not offend against this Act, and no punishment of the Officer, his punishment being for issuing them out after the last day of Session—The pardoning pence and halfpence is good, because most Corporations are concerned in it, but thinks the exception of coin current cuts that off without benefit—First Fruits, Tenths, Subsidies, &c. things that refer to account—Thinks that some accounts are fit to be pardoned, that persons may be at an end, imprisonments excepted—There have been divers committed by the Privy Council of late, and great sending for persons by Serjeants at Arms. If the Privy Counsellors have exceeded their power, persons committed are excluded from all grace and favour of this pardon—In Queen *Elizabeth's* time, in the business of *Mary Queen of Scots*, they couched these words, “she being committed by the Queen and Council’s special command, upon special occasion.” These things occur to him; knows he has no need of this pardon, and great offenders and offences are pardoned in it—Would have it considered.

Mr Attorney *Finch*.] He likes the Clause “if molested by the officer, treble damages.” Process before the last day of Session, and so may be tormented in the mean time—The King, who will be the Conservator, will take severe course with any officer, and would see him that dares be so that he himself will not call to question—If there be any arrears of First Fruits and Tenths, God forbid that the King should not have them—Farthings pardoned; he thinks farthings are no part of the current money of *England*, nor any coin, and so no danger—As to prisoners in the *Tower*, by command of the King and Council, the Queen of *Scots* was no subject of *England*, and so never in the words of the Pardon. 21 *James* was the last general Pardon—Excepting condemns no man, but excepts him from Pardon—Would you have active persons prisoners of State, who in no age were ever thought fit to be exempted? He is not enough privy to the
the

the Councils of the King his Master, but it is necessary for some persons whom you would be sorry to see loose—Above forty things are pardoned in this Act that never were pardoned; forest-trespases, and many other things, never pardoned but by the Act of Indemnity—Never was any Pardon so ample as this.

Sir *Thomas Lee*.] Would have nothing remain but joy—Would know what is meant by “Prisoners of State;” a dear-bought Pardon to be against the Petition of Right—Does not say the Pardon is, but it is a strange kind of implication—What was the occasion of the Petition of Right? That of Prisoners of State was part—Would put those things out of memory, never to be brought into question again,

Mr Attorney *Finch*.] Believes that zeal for public Liberty inspires *Lee*; he believes those prisoners may demand *Habeas Corpus* to-morrow if they please, and it is no infringement of right.

Mr Secretary *Coventry*.] Be the crime ever so inordinate, he is immediately pardoned, were there not these exceptions.

Mr *Vaughan*.] Whoever is a prisoner ought to be so by Law—Those committed by the King and Council are not prisoners of State, and they may have *Habeas Corpus*. Would have no other distinction pass than “Prisoners of Law.”

Sir *John Mallet*.] *Jersey* and *Guernsey* are the King’s dominions, and a Writ cannot pass thither; here was an Act depending in this House about it.

Sir *Thomas Meres*.] Is sorry that the point of halfpence and farthings is left a moot point; if it be, he will come to the Attorney-General for his hand.

The Bill passed.

Debate on the Lords Amendments to the Bill for Ease of Dissenters, resumed.

Mr *Swynfin*.] We all know that many keep in the Communion of the Church of *England*, and come to the Liturgy and Sacraments, but are shut out of the Ministry by

by the Subscription; and that these men should be shut out of the benefit of this Bill is hard—The Proviso says [“fall from the Church”] but would know in what they fall from it; some of the Papists have fallen from our Church, and you have marked them in the other Bill, but these do not fall from it—Suppose one should conform, and do as they do in the Churches of *France* or *Holland*; but should he go to *Rome* and do as they do there, we should judge him a faller off—Only speaks it, because to learned men that are Protestants it will prove a scandalous Law.

Colonel *Strangways*.] No learned man of the Church of *England* will conform to the *German* or *French* way—It becomes every man to conform to the custom of the Church he was born in—We do not censure the Churches beyond sea, nor blame them for imposing upon their children—But to a Presbyterian that will not allow the Church of *England* to have the power of other Churches abroad, he will not consent—If you allow not the Parliament to command and judge things indifferent, you take away all—It is not Religion but Government—To shut a door, or take up a pin, is a great thing when commanded, though but little in itself.

Colonel *Titus*.] It gives these people indulgence in great things, but restrains them in small; like the custom at *Rouen* in *France*, where a Malefactor must be pardoned and carried about in triumph on their great Saint's day, be he a murderer, or has lain with his sister; but a small rogue is not pardoned—King *James* gave particular instructions to all his Ambassadors at *Paris*, that they should go to Church at *Charenton*, and [it has been] so since his time—To procure this liberty, it seems, persons must differ from your Church as much as they can.

Sir *Adam Browne*.] The Proviso says [“seduced”] Hopes you will suppose Growth of Popery as well as Presbytery.

Colonel *Birch*.] Would fain know what it is to be of the Church, and what not; that will require a Divinity Lecture—Let the same word be in the Proviso as against the

the Papists, and pen it as in that, and he is not against it.

Mr *Garroway*.] Would have this "deserting" described, you will else be subject to every little Proctor or Informer.

Sir *Thomas Lee*.] You will make it, by this Proviso, so unintelligible, that you will make it rather an Act of Combustion than of Ease.

Sir *Charles Harbord*.] Shall this extend to all? Who then shall be safe? This is a perfect setting of snares.

Mr *Powle*.] It is so obscure few can understand it; ["Common Prayer, or seduced"] a disjunctive; what shall be understood a withdrawing from the Church of *England*? If once a man comes in, you exclude him the benefit of his other congregation; if you will hinder him from coming, though for his curiosity, you may fright him away from conversion to our Church.

Mr Solicitor *North*.] The Question is intended to discourage apostacy, ["those that have for a twelve-month last past"] Would have it thus mended; instead of "seduced and deserted the Church the space of a twelve-month;" "not received the Communion and do go to Conventicles."

Mr *Waller*.] Suppose this; "no man shall desert our Church"—When beyond the sea he went to their Protestant Church, but when an Ambassador came, he went to his Church. This will make men dissemble, and come to our Church when they care not for it.

Colonel *Titus*.] Would gladly know, if any man that has within a twelvemonth received the Sacrament, may keep Conventicles? You will give liberty to Dissenters, and not to such as are not.

On the Lords Proviso of Indemnity.

Mr *Powle*.] Would have it an Indemnity to such as have omitted, as well as acted, by virtue of the late Act of Conventicles.

[It was so amended.]

Sir *Thomas Lee*.] Moves that it may not indemnify such as have received money by virtue of penalties in that Act.

[A Conference was desired on the Amendment.]

Saturday,

Saturday, March 29.

Debate on Members taking the Test in the Act of Popery.

Sir *Thomas Meres.*] The words of the amendment are, "Every person that has any public trust or employment from his Majesty, or derived from him," which comprehends Members of Parliament.

Colonel *Birch.*] This will sound very ill abroad, that all persons in employment and trust must take this Test, and that we should not include our Members.

The Speaker.] It is the same thing as if you should enjoin all Members to observe the Law.

Sir *John Duncombe.*] The thing is objected to in the House, and we ought to be satisfied in the thing before we rise—Would have your sense declared here, and explained by yourselves, that we be not brought into *Westminster* Hall about it.

Mr *Waller.*] Believes it always that the Officers of the kingdom are to take this; as by the statute of *Elizabeth*—The Commons cannot all come hither, and therefore we represent them; *a majore cautela*, we may have an Order made in it—That statute enjoins Oaths before we sit here.

The Speaker.] The thing is no Law yet, and you are going to make a Declaration of a thing before it be—Pray consider of it.

Sir *Richard Temple.*] You can make none of these Orders; if such a Law pass to do so, it is not fit to be upon your books—Would have it according to rules prescribed in that Act.

Mr Attorney *Montagu.*] If you order it according to the Bill, such a thing has passed, and you may be mentioned in it.

Sir *Thomas Meres.*] He that sits here owns an authority; he sits here in a place of trust; it may be, a complaint may come from his Borough, and he be put out—Would have no man surprized.

Mr

Mr *Waller*.] We are sent here only by our country ; not by the King, but by name.

[No Vote passed in it.]

Mr *Thomas*.] Moves to have our Addresses concerning Grievances, and the King's Answer to our Grievances, printed.

Sir *John Mallet*.] Divers Grievances have been by foldiers since the Address, and 'tis fit the people should have notice of it.

Mr Secretary *Coventry*.] You will show your complaints to the King of Grievances, but not his Answer, for the King has not yet published any thing relating to it—You have no power to print it.

Sir *Thomas Meres*.] He will not say you have power to print the King's Speech, but we have power to print our own Address ; there are many instances this Parliament, and it may be of great use.

Mr Secretary *Coventry*.] By the Act of Printing, you cannot print.

Sir *Thomas Meres*.] Since that Act, Sir *Edward Turner*, late Speaker, has appointed things to be printed several times.

Sir *Thomas Clarges*.] Shall not dispute whether we have power or no ; it is a kind of Appeal to the people ; but printing this will much heighten and increase the love of the people to the King—Would have the Privy Counsellors of the House desire his Majesty to cause them to be printed.

Mr *Harwood*.] Stands up to second *Clarges's* Motion—Some inconveniences have lately been by foldiers—You have had a Member lately robbed [Mr *Wharton*] by persons like foldiers, armed and horsed ; his Motion is no more than to keep the people quiet—Thinks it a reasonable Motion, and would have the King moved in it.

Sir *Richard Temple*.] You would not let your transactions be printed in news-books ; you have decried this printing, begun in the Long Parliament, as of ill consequence ; let these things, like Appeals to the people, be avoided.

Sir

Sir Thomas Lee.] The Motion is far from “an Appeal to the people;” this is only, that the King having given us a gracious Answer, you publish it. To what intent? It will be a means to prevent farther mischief; the people may address the King for remedy for the future.

Mr Secretary Coventry.] To print this, as if it were a Statute or a Law, will look like remonstrating; the Long Parliament was condemned for it.

Colonel Birch.] The Question is not your directing it to be printed, but desiring the King to cause it to be printed. If this were printed, it would end many disputes in the country about quartering of soldiers.

Sir Robert Carr.] What can this printing be but a mistrust of the King, that he will not do what he has promised? No doubt but the King will do it as effectually as he has promised.

Mr Vaughan.] These are good objections, if the House was to order it to be printed; but we do no more appeal to the people by this than by publishing a Law—It is to publish his Majesty’s gracious favour to his people.

Mr Cheney.] For the ill consequence that hath been made of it, and may be of this, would not have it printed.

Sir Robert Howard.] The first Motion is out of doors by the Act of Printing—As for the next Motion, printed things are always the best speakers to the people—To what end should the people think you do this?

Mr Swynfin.] It has been debated long, and you cannot rise without a Question—As he cannot think the Address improper, or the King’s Answer such as you cannot rest upon as satisfactory, therefore he is clear for moving the King to have it printed—It is said “this is but an Address of this House to the King”—Your usual course is, when your Grievances are not redressed, to have recourse to the Lords for a Law—In regard you have waved all other ways, and taken this, it is most reasonable to have it printed, that a countryman may have something to show.

Mr

Mr Secretary *Coventry*.] *Swynfin* said, the other day, "it was a reproach to a man, to have the Test of renouncing the Covenant put upon him"—To those that have not as well as to those that have taken it, it is a reproach—Supposes this printing will be so to the King, by the same reason as his other objection.

Sir *Thomas Meres*.] How much the people are beholden to the House of Lords, and how little to us! The King's Answer about the Declaration we did not print. We are beholden to the Lords for it, and so are the people.

Sir *Thomas Lee*.] If you will adjourn now, adjourn the Debate likewise to the next Session, and let it be upon your Books.

[The House divided even upon the Question, 105 to 105: The Speaker had the casting voice, and gave it for adjourning, and jestingly said, "He would have his reason for his judgment recorded, viz. because he was very hungry."]

In the afternoon, Sir *Thomas Meres* reports the Conference from the Lords; upon the Amendments in the Bill of Ease to Protestant Dissenters.

To our Amendments to the Lords Proviso,

Lord Chancellor, the Earl of *Shaftesbury*.] The Lords did desire all agreement with this House, and never Session was more happy in agreements—The Lords insist upon the King's Proclamation, and say it keeps the whole scheme of the Bill—To our reasons of "the Proclamation with limitations," they answer, that the Proclamation may give less power, but not more than the Bill; as the Proclamation is without precedent, so, they say, is our Bill without precedent, and alters the establishment by Law for a time: A Lease is as good a Lease for one year, as for seven; it always ought to be at the will of the Crown and dependent; the King may give them less, but not more than the Act—The Lords like not the Clause of "misdemeanor;" since, upon that, the King may take away their liberty; it supposes a right in the Dissenters, which they cannot allow—As to the other Amendment, here they are only making an Act of "Indulgence," not of "Comprehension;" some will not be comprehended; the Anabaptists are men of good lives, and are good traders—It is severe as to the Papists, because they must repair to the Quarter Sessions, and then they will be known—As for the Covenanters, all we can do

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may be to let in some few; those that have taken it may repent; those that have not may be more dangerous.

Earl of *Anglesea*.] It is better to leave the trust in the King, who has barred himself from suspending the Laws, by the preface of this Act—Such Proclamation gives notice where Licences may be had, the authority being from the Act, not the Proclamation, and so must Licences be granted; the countenance is more from the Law than the King; offenders of the Law can have no privilege but from the Law; where the King gives at pleasure, he may take away at pleasure—34 *Elizabeth*—That Act is only for Churchmen, and this not.

Debate upon the Amendments.

Mr *Powle*.] Is fully convinced, that our arguments, at the Conference, were good; for the King may alter the Law, by this Proclamation, as often as he pleases—This extends not to a single Law, but to many, and excludes this House and the Lords—We, by giving this power, if abused, may be the greatest Grievance to the nation that is possible—Licences must be bought, and you put these Dissenters, who are numerous, to have money raised upon them—You, by giving this authority, dispense with all Papists, Jews, and Mahometans, and knows not but with Idolaters also—He questions not but the King may use it well; but knows not how long it may continue, if Parliaments be laid aside, and possibly it may be an occasion that we may not meet again.

Mr *Boscawen*.] If the Proclamation be by virtue of an Act of Parliament, it is no argument against it; that it may bring in all sects, is not so obvious an objection, but under the word “Protestant,” all are excluded that are not so; if he be a Jew, Turk, or Mahometan, it is secured as much as may be—They will be known what they are, and there is no danger by agreeing with the Lords.

Mr *Vaughan*.] If any man believes he will purchase this Bill at the price of renouncing his Religion, and his God, he is mistaken; your Bill gives only indulgence to “such as subscribe the Articles, &c.” But as they have added this Proviso [there is] no manner of Test, all are let

let in, and persons admitted that will say any thing, and that your Church has no Lawfulness in it, and the reason of dispensing with those Laws dissolves the whole government of the Church—If a man has no other sanction, but the Law, for his Faith, we let in Atheism and *Socinianism*, and he would rather be of no Religion, than believe that Christ is not God—This makes way for the same counsel the King had in the Declaration; and some of Lord *Anglesea's* arguments are, “that when the King will break his Laws, you will give him a Law to do it”—For the Crown to pardon, it is good for every man, and fit it should have it, but the power of “indulging” is a thing you cannot give, and hopes it will never receive.

Mr *Swynfin*.] The Question before you now, is, Whether it shall be left at liberty for the King to issue out his Proclamation, &c.—Agrees with Mr *Vaughan* thus far, if he can make it good, that it is against Law and against God, if an impunity was given to any man to do it; but there is no such thing, in fact; it is directed only to “Protestant” subjects, and if they preach any thing against the Doctrine, Government, or Discipline of the Church of *England*, they have not the benefit of this Act—Hopes that his stating the thing so amiss, will not weigh with you; “you give the King this power again of dispensing,” he says; he that releases does destroy his right, and taking a new Grant of it destroys it more in Law—If your Law had gone without this, it might be abused, as may any other Law you can make—The King is limited within the bounds of this Law, and how can you be abused? After a general sense of the House that something should be done, there is but one of these two things, either to agree with the Lords, and have something, or not agree, and have nothing. He is for agreeing.

Mr *Waller*.] Bring what Tests you will, and you cannot keep out the *Socinians*; but that is of another nature—There is in all things an extraordinary trust in the King; as in the Licences of Alienation, and several

other things : This Proclamation is said to be like the Declaration ; but by the Declaration of *Breda* you have disbanded a veteran army—Our Church is best when, like the head of it, meek and peaceable ; we have had kindness and peace by the *Breda* Declaration ; like the Sciences,

Emollit mores, nec finit esse feros.

Colonel *Strangways*.] Now the whole scheme of the business is altered—Doubts that some that made these arguments in the Lords House had a hand in the Declaration—He can suffer for his religion as cheerfully as ever—Such persons as have said, “ that God had blasted the family of the *Stuarts*,” have been licensed by the Declaration—Let us not do this at the end of a Session, when we cannot foresee what a tract of time must discover—Had you questioned those men that gave the King that advice, it had never come to this—It is a Law to justify them in what they have done—Have regard to the Protestant Religion and the Church of *England*—Though we have charity for these people, yet they hold, that there is no Salvation in our Church, as the Church of *Rome* does. Have they not told you that the Government by Archbishops and Bishops is antichristian ? Would not agree.

Sir *Thomas Meres*.] Would open the truth of this matter a little ; he has ventured to hurt the Church of *England* more for their sakes than he will tell you—By the Lords Amendments, all sects go together with the “ Protestant doctrine ;” they may have all the exercises of Popery, only they must not preach against the doctrine of the Church of *England*.

The Lords insisting on their first Amendment, the Question being put for candles, upon division of the House 75 were for candles, and 136 against candles ; those that were for candles, were for prolonging the Debate, that the Black Rod might call us before we voted, “ adhere ;” and though divers Motions were made for adjourning the Debate till next Session, yet no Question could be put, the Black Rod knocking at the door.

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The House was then adjourned by his Majesty's desire to *October 20* *. And so ended this Session, on *Easter Eve*, at nine of the clock at night.

* The King came to the House of Lords, before the Bill for Ease of Dissenters, and some others, could be fixed, and, besides the Money-Bill (which passed under the Title of "A Supply of his Majesty's Extraordinary Occasions") and the Popery Bill (commonly called "The Test Act") passed eight public Acts. "Thus ended," says *Burnet*, this memorable Session. It was, indeed, much the best Session of that long Parliament. The Church Party showed a noble Zeal for their Religion; and the Dissenters got

great Reputation by their silent deportment."

In consequence of the Test Act, the Duke of *York* himself, who was Lord High Admiral of *England*, and the Lord Treasurer *Clifford*, both laid down their places. The latter is said to have been so much disgusted at the King's passing that Bill, and some other condescensions, that he retired, and died in privacy and discontent, in *Devonshire*. Sir *Thomas Osborne* succeeded him as Treasurer, being created Lord Viscount *Dumblain* and Earl of *Danby*, &c.

Debates in the House of Commons,

From the Year 1667, to the Year 1694.

Monday, October 20, 1673.

The House met.

Ordered,

THAT an Address be made to his Majesty, by such Members of the House as are of his Majesty's Privy Council, to acquaint his Majesty, that it is the humble desire of this House, that the intended marriage of his Royal Highness with the Princess * of *Modena* be not consummated; and [that] he may not be married to any person but of the Protestant religion †.

[The House was then prorogued by his Majesty to

Monday, October 27.

When the King, in his Speech, which was delivered in writing to the Speaker, told them, "That he thought that day to have welcomed them with an honourable Peace; but that the *Dutch* had disappointed him, and had treated his Ambassadors at Ca-

* Duchefs in the Journal.

† In the former Session it was known, that the Duke was treating a Marriage with the Arch-duchefs [of *Inpruck*; but the Emperess happening to die at that time, the Emperor himself married her] and yet no Address was made to the King to hinder his marrying a Papist. His honour was not then engaged; so it had been seasonable and to good purpose, to have moved in it then: but now he was married by proxy, and Lord *Peterborough* had brought the Lady to *Paris*. Yet the House of Commons resolved to make an Address to the King, to stop the Princess of *Modena's* coming to *England*, till she should change her Religion. Upon

this, the Duke moved the King to prorogue the Parliament for a week, and a Commission was ordered for it. The Duke went to the House on that day, to press the calling up the Commons, before they could have time to go on to business. Some Peers were to be brought in; The Duke pressed Lord *Shaftesbury* to put that off, and to prorogue the Parliament. He said coldly to him, "there was no haste:" but the Commons made more haste; for they quickly came to a Vote for stopping the Marriage, and by this means they were engaged (having put such an affront on the Duke) to proceed farther. *Burnet,*

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legne with the contempt of Conquerors, and not as might be expected from men in their condition :

“ That this obliged him to move them again for a Supply proportionable to the occasion, the safety and honour of the nation requiring it ; and that if he had it not speedily, the mischief would be irreparable in his preparations for the next spring :

“ That the great experience he had had of the House of Commons would not suffer him to believe that the artifices of their enemies could possibly divert them from giving him this Supply :

“ That he hoped they were persuaded that he was steady in maintaining his professions and promises concerning Religion and Property ; and that he should be very ready to give them fresh instances of his zeal for preserving the established Religion and Laws.

“ Lastly, He recommended to their consideration and care the debt he owed the Goldsmiths, in which many more of his subjects were involved ; and desired their assistance for their relief *.”

“ For the rest he referred them to the Chancellor,” who, in his speech, now studied to correct his *Delenda est Carthago*, applying it to the *Lovestein* † party, whom he called “ the *Carthaginians* ‡.”]

[Debate.]

Sir Thomas Clarges.] The King’s Speech consists of many parts, and refers to the Chancellor’s Speech, which you have not reported—Moves for an adjournment till Friday, that we may, by some means, have it to consider.

Mr Secretary Coventry.] Moves for thanks to the King, for his care of our great concerns, Religion and Property.

Sir Robert Carr.] You usually let no minutes pass

* When the week of the Prorogation was ended, the Session was opened by a Speech of the King’s ; which had such various strains in it, that it was plain it was made by different persons. The Duke told me,

“ that Lord Clarendon, during his favour, had penned all the King’s Speeches ; but that now, they were composed in the Cabinet, one Minister putting in one period, while another made another, so that all was not of a piece.” He told me, “ Lord Arlington was almost dead with

fear ;” but Lord Shaftesbury reckoned himself gone at Court, and acted more roundly. Burnet.

† The Party in Holland against a Stadtholder, so called from the Castle of *Lovestein*, where the Father of the Prince of Orange had imprisoned certain of the States, when he had entertained designs on the liberties of his country.

‡ This expression made the Chancellor as ridiculous, as the other had made him odious. Burnet.

before you give his Majesty thanks—Would have thanks ordered now, and would have that day moved for, to consider of the other parts of the Speech.

Sir John Hotbam.] It is unusual to give thanks, before men have time to look over the paper; would in this, and in all other matters, do things like wise, honest, and reasonable men.

Sir John Duncombe.] The motion is “to return thanks to the King for his care of our Religion and Properties.” This is so reasonable that your hearts can desire no more—It is not to take the parts of the Speech into consideration—He cannot say, it has been customary to return thanks, but it has been frequently done since he had the honour to sit here, and would have it so now.

Sir Thomas Lee.] The last Session, “Religion and Property” were in the King’s Speech, and no thanks were returned then; but why should we thank, before we know for what to thank? Knows not how the Privy Counsellors have been made acquainted with the parts of this Speech; he is not, and would consider of it before we give thanks.

Mr Attorney Finch.] If any thing was moved, that any consequences in the King’s Speech might hinder, he should not wonder. To make haste to give thanks for that which has no doubt, it is matter of wonder to him that it should be opposed—It is no new thing—In *Queen Elizabeth’s* time, our Journal has several instances of such thanks—He will not oppose *Friday* for consideration of the parts of the King’s Speech—The King is safe in the affections of this House, but this will fall to the ground with a very ill grace, if put off.

Mr Sacheverell.] Thanks, deliberately given, are sure as acceptable as hastily—When you come to consider, you will find neither “Religion nor Property” mentioned—In the country he lives in [there is] quartering of soldiers, and horses taken away—In a paper in his hand, finds Law Martial and Oaths, and knows many things more, and by *Friday* shall acquaint you further.

Mr Mallet.] One who was presented to the King in
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our Address, as an Agent for the Catholics of Ireland, he has seen in *Whitehall Gates*; *Talbot*—This thing, he confesses, retards his thanks.

Mr Secretary *Coventry*.] The Martial Law was never intended to be put in execution, till the army should be beyond sea; and as for *Talbot*, he was very lately at *Paris*, and knows not of his being in *England*.

Sir *John Hotbom*.] If the Martial Articles were only for *France*, why not then in *French*? Answered, "Because the soldiers were *English*, and could not understand them."

Mr *Garroway*.] Never was unready to send the King thanks, but if we return them so suddenly, we shall be thought, without doors, teized and corrupted; but we are under censures, and it is no irreverence to the King, when it comes from a House that does consider—They say, a Member of yours has translated the *French* articles of war into *English*, hopes we shall find him; he deserves not to sit here; let them be for *France* and not us—*Nolumus mutare*, &c. If some change Law to our prejudice, some may do it to the King's prejudice, and he would adjourn this Debate of thanks.

Sir *James Smith*.] These articles were only to prevent enormities amongst the soldiers, but no ways to intrench upon either Common or Statute Law.

Mr *Stockdale*.] In our country there was a Martial (not a Court Martial) for then the man might have been hanged; an Overseer of the Poor was committed to him, and not released till he had paid five pounds.

Mr *Powle*.] *Smith* tells you, "the articles were only for the soldiers in *England*," and now we have all the reason to take notice of them—Doubts not but we shall have reason to give the King great thanks, and when they come deliberately, 'tis more acceptable than when they come upon surprize.

Sir *Thomas Clarges*.] The King is a gracious Prince, but we have had strange clouds, and since the last Session, all our Addresses have been broken—(Interrupted by *Garroway* to Order, "That when Grievances are considered he may then present what he has to say.")

[Resolved,

[*Resolved*, That the consideration of his Majesty's Speech be adjourned till *Friday* next.]

Debate concerning the Speaker.

[*Sir Thomas Littleton*.] Many exceptions were taken against your service, when you was last called to the Chair—Except that you are a Privy Counsellor; hardly a precedent, at least not since the Reformation—Speakers, in *Queen Mary's* time, were chosen for the re-establishment of the *Roman* religion—You might be made a Privy Counsellor afterwards, as a reward of your service, but not whilst you are Speaker—Other offices you hold inconsistent with that Chair, and have admittance to the most secret councils, and how improper is that, we having no man to present our Grievances but you! You are too big for that Chair, and for us; and you, that are one of the Governors of the world, to be our servant, is incongruous—And as *Carteret*, Treasurer of the Navy, in that place [which you hold] took up the main business of a Session; by way of supposition, if that should happen again, were it proper for you to be in the Chair? For who [then] will be so much concerned?—Moves for a Speaker, *pro tempore*, and 'tis very incongruous you should sit when so immediately concerned.

[*Sir Thomas Clarges*.] Thinks what has been said so rational, that he cannot think that any man can be against it—We entrust you with all our secrets; and in your Predecessors times, no Speaker had liberty to go to Court, without leave—It is the Order, “that when any reflection is upon a Member, he stands up and speaks his defence, and retires,” and would have it so now.

[*Sir William Portman*.] What we say here can be no secret among four hundred men; persons in the Hall know what we do—Craves leave, that some Precedents, out of *Hackwell's* book, of Speakers being Privy Counsellors, may be read.

[*Sir Joseph Tredenham*.] Former ages have known none more fit for Speakers than Privy Counsellors—*Sir John Busbell*, who was Favourite to *Richard II.* was Speaker of all

all the Parliaments in his time—Sir *Thomas More*, in 14 *Henry VIII.*—In 4 *Queen Mary*, *Cordell*, a Privy Counsellor—Has it ever been objected that a Privy Counsellor cannot be a Parliament-man? We have often made use of Privy Counsellors to send Messages by to the King—The eyes of all the kingdom are upon our actions—It is a mark of the King's favour, that you are in the Chair—Would have it referred to a Committee, but not you to quit the Chair, that being a yielding of the Question.

[Sir *John Birkenhead*.] Never was it an exception against any man before in your Chair, that he was a Privy Counsellor; if any precedent can be of it, then turn me out of the House—The making him Speaker, is the King's and your joint act—If any complaint be against you, answer it, but for *causa inaudita*, it was never heard of: It is clear that the first Speaker, *Hungerford*, was of the Privy Council, and he was *ex consilio Domini Regis*—*Froisard*, the Historian, was another, no Gown-man—Sir *Thomas Gargrave*, of the Queen's honourable Council [many may say of the Council of the North] a Speaker, in *Henry VIIIth's* time, and a great instrument of the Reformation—This will reflect upon the King's making you a Privy Counsellor—Never any Speaker quitted the Chair upon that account:

[Mr *Powle*.] Is not envious at your promotion, but thinks it an improper thing for you to be in the Chair, and both inconvenient to the King and this House; the King's welfare consists in the freedom of this House. When you a Privy Counsellor, and so near the King, your frowns may be a terror to any man that shall speak how the Council have misled the King, and given him counsel to overtop us; you are a public Accomptant of the King's revenue, and vast sums must go through your hands, and can we make complaint to you of your own misdemeanors?—Or take measures from any person but from the intention of this House?—Believes that the Precedents will fail; at this time, most especially, would not have it; for, if allowed once, it may be always so by Precedent—The Precedent of the Speaker,

in *Richard II*'s time, an ill one; that Speaker was a Mission of the King, but no Counsellor, as the Record says; he was greatly the occasion of the misfortunes of those times—1st and 2d of *Philip* and *Mary*, unprosperous times; in two Parliaments they could do nothing; but when *Higbems* was Speaker, the Obedience to the Pope was confirmed—He was not sworn Counsellor till ten months after, and *Cordell* was not Counsellor till some time after.

Mr *William Harbord*.] Tells the Speaker, that you expose the Honour of the House in resorting to Gaming-houses, with Foreigners as well as *Englishmen*, and ill places; takes this to be a great misdemeanor—As for your being a Privy Counsellor, thinks that no exception, but is sorry to see the Honour of the House exposed—Thinks you to be an unfit person to be Speaker, by your way of living.

Colonel *Strangways*.] What he has heard to day weighs not with him; exceptions against the Speaker, as a Privy Counsellor, will be a garbling the House—You are charged here for being a Gamester; wishes men were guilty of no greater crime—The Judges may as well be excepted against.

The Speaker rose up and complimented the House to this effect, "That he held no employment a greater Honour to him than that which he had in their service," &c.

[The Question being propounded, That Mr Speaker do leave the Chair, and a Speaker, *pro tempore*, be appointed: The Question being put, That that Question be now put; it passed in the negative.]

[Adjourned to *Thursday*.]

Thursday, October 30.

Mr *Sacheverell*.] Sees a person (*Sir Paul Neale*) sit in the House, whom he knows not to be a Member; desires to know by what right he sits there.

Sir Paul Neale proffered to speak, but was not suffered; "because if admitted to speak in his place, you allow him to be a Member"—By divers he was called to the Bar, and explained, "not

as criminal, but only as not being allowed a Member, as Lord *Bristol*, Lord Chief Justice *Keeling*, and others have been, not Members."

Earl of *Ogle*.] Desired to inform the House by what right Sir *Paul Neale* sat there; viz. as being returned a Burgess for *Newark* with Mr *Savile*, by virtue of the King's Charter granted to that borough.

Mr *Sacheverell*.] He is informed that that Charter has taken in many towns which were not in the former Charter, to their great prejudice, and would have it considered.

Sir *Paul Neale* did at last withdraw, and the thing, at that time, was proceeded no farther in.

Mr Secretary *Coventry*.] Desires to know the opinion of the House, whether he shall deliver a Message from the King, which he had in command during the Prorogation.

Mr *Garroway*.] There are several precedents, in King *James's* time, of returns of Messages to the King in time of Prorogation.

Sir *Robert Carr*.] Would have the thing decided by a Question, that it may be a guide for the future.

Sir *Thomas Lee*.] Would have no Question about receiving an Answer from the King, which is always gracious.

The Message was read by the Speaker, viz.

"CHARLES R.

His Majesty having received an Address from the House of Commons, presenting their humble desire, that the intended marriage between his Royal Highness and the Princess * of *Modena* be not consummated, commandeth this Answer to be returned: That he perceiveth the House of Commons have wanted a full information of this matter, the marriage being not barely intended, but completed, according to the forms used amongst Princes, and by his Royal Consent and Authority—Nor could he in the least suppose it disagreeable to his House of Commons, his Highness having been, in the view of the world, for several months, engaged in a treaty of marriage with another Catholic Princess, and yet a Parliament held during that time, and not the least exception taken at it."

* Duchess in the Journal.

Mr

Mr Secretary Coventry.] Though he knew generally there was a Message from the King when the House sat, yet knew no particulars of it, and could not inform you then—The Earl of *Peterborough* had his several instructions and commission from the King, and his orders. When the *Sponsalia verba de presenti* were over, he then presented the jewels from the Duke of *York*, & in his *indissolubile matrimonium*; then the remaining jewels were presented—As for what has been reported, “that the King of *France* should give the dower,” assures you, he gives not one penny of it; she had four hundred thousand crowns left her by her father, and to be married by consent of her mother—We are as able to be without, as the King of *France* to give, the portion.

After a long silence:

Mr *Stockdale*.] This is a matter of great weight, and undertaken with great concern—He gave reasons for the great danger of this match at the Debate; the King's Answer has much Grace in it, but it does not remove the fears and jealousies of the kingdom—Knows not how the Civil Law may be, as to Sovereigns, but as to subjects believes it not binding—Would rather pay the money she is to have in portion than that the match should go on, and would have the King addressed unto to prevent it.

Colonel *Birch*.] Is full of sorrow for this Answer, and thinks us all so—Nothing can make Gentlemen speak in this business but true love, which has occasioned our silence, love to the King and his Highness—Will not undertake to decide the business as a Civil Lawyer, but thinks it may be undone—Popery, our Divines say, is idolatry, and we condemn many things practised in that Church—When confidence betwixt the King and people is broken, all is amiss—We have not had merry days in *England* since marriages have been—It is laid upon us, in the Message, “that we formerly sat still when another marriage of the Duke's was in treaty;” there was, indeed, a rumour, but no certainty of it—He thinks Religion so much concerned in this, that if it goes on, he will leave

leave speaking for Religion here—Moves to refer it to two or three Gentlemen to pen an Address to the King to prevent this marriage, and thinks he will never deny us a request so reasonable as this.

Mr Cheney.] Persons cannot withdraw to pen the Address, before you rightly understand the thing. *Verba de presenti* are binding words—Would have it enquired in the *Instrumentum stipulatum*—In the Spanish match there were dispositive that a marriage should be contracted, and in this a marriage is contracted—Would have it enquired, whether in the manner of doing it, the commission was not exceeded—Would have an Address to the King, if possible, to prevent it.

Sir Allen Apsley.] The marriage is gone so far on, that to stop it now, would be the greatest dishonour imaginable, and the Duke cannot recede from it.

Sir Thomas Clarges.] Gentlemen speak with grief of heart, when they consider how near the Duke is to the Crown, and these marriages may be of great consequence in future times; he finds the Privy Counsellors strangers to it—Secretary Coventry has averred himself a stranger to it—Sees so much inconvenience in it, that he could wish us well rid of it—The King of France, in the marriage of Monsieur with the Prince Elector's daughter, sent to Mentz to forbid her entrance into his dominions, unless she declared herself a Catholic, “for, he said, all considerations ought to vail to the weal of his people, being against the opinion of his Council and Clergy.”

Mr Secretary Coventry.] Confesses a Protestant match more chusable, but both Religions are legal matches, and were never excepted against but in this Princess—We have none but daughters by the Duke, and if the Duke should not marry this, and marry another wife, and that marriage be disputable, what a case are we in? In annulling this, you will annul former marriages—Could wish this Lady a Protestant, but this having been so far proceeded in, fears it out of our power to hinder it.

Sir Thomas Lee.] The Question is before you as the
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great Council of the King, for the inconvenience of it—The Clergy and Convocation may inform him, whether it is a marriage or not a marriage, but for places for Priests and Jesuits to be publickly in, would have no more than are already—If it be so far gone as is said, we can only lament it, but let us show our dislike of it.

Sir Charles Harbord.] In his old master King James's case, he was nearer to Queen Elizabeth in point of succession, than the Duke is to the King, for it ceased to be with her after the manner of women, and then there was no Question of his marriage by proxy.

Earl of Ancram.] Could wish this a Protestant match, and hopes you may secure the thing for the future, that we may be defended against Rome; but thinks it out of your power to hinder this, or any other; let the danger be what it will, thinks it out of your power—To affront a man that has fought your battles, and amongst so many men of honour,—hopes you will not put him upon such a hardship.

Sir Charles Wheeler.] When we consider the great growth of Popery, it concerns him—In the 19th of King James, exception was taken that the Commons meddled in matters of Religion, and the Spanish match; the Commons "remonstrated, that matters of marriage were in the King's power, but the nation was concerned in it, and they must discharge their duty, and would rest satisfied in what the King did;" and he would have it so now.

Sir Thomas Higgins.] Marriage in *verbis de presenti* is indissoluble; the Princess is on the way—What the King does, in his royal function, is the act of the people, and the kingdom is bound, this house, and every man, by it—All Kings are concerned in it, to preserve their supreme power—The law of nature is concerned in it, and nothing so against it—*Præterita magis reprehendenda sunt quam corrigenda*; we may lament it, and would have good Laws against Popery, but would not have the honour of the nation concerned.

Lord St. John.] A Lady so nearly related to the Court
of

of Rome, must be a very inconvenient match—As to the matter of Contract, refers that to other persons; but would have Gentlemen withdraw and prepare some reasons to present the King against it.

Mr Waller.] As long as he has sat here, never saw any thing of the same nature; he is much astonished at it—How far this concerns our peace and quiet! No greater disadvantage possible, than for a Prince to marry one of a different Religion—When the King did communicate his Marriage, he was the sole man that spoke against it, and was cried down—Thinks you have done well to go as far as you can in preventing it, but now you hear of Desponsories—It is, first, for the honour of the House; not to interpose; the King communicated his Marriage, and you approved it; and now a thing is past all remedy, and you interpose—Next, consider how it stands as to alliance with Idolaters; by that reason we can make no consideration of Peace with them—Why should we find fault with this, when we do things ourselves daily by Proxies? We are the people's Proxies—The *Sponsalia* and the Portion agreed—Breach of Faith and Religion, the breaking it shaking all human society; it is past our help; the French married one of a different religion; if we break this, it may have an ill influence on our posterity—First we pray for posterity of the King—A friend of his married a wife, contracted before; the suit lasted seven years—Charles VIII. went to *Britany* in person to that Dutchess's bed*, but it put all Christendom in an uproar—It is strange that we should thus seek a doubt for this; it is neither for the House's honour, religion, nor the good of the nation; and, above all these, consider how the Duke has exposed his person—Consider the thing and the person, and hopes you will decline this manner of proceeding.

Sir John Duncombe.] The Duke has proceeded in this match with all respect to the King; he has had his leave and authority—It will be a hard thing to stop here; where will you be secure if you have this marriage stopped? Suppose it should be, where were you then? It is

* In 1491. By this Marriage, *Britany* was annexed to the Crown of France. *Puffendorf*.

a nation this Lady comes from that you have yet had no experience of, a sober and wise nation—Can you say to any man, you shall not marry this or that woman? Can you be sure that any woman shall not be a Catholic? He had rather have a foreign Catholic than one at home—Thinks, in this case, the King having proceeded so far, and you having done your part, you may proceed to what remedy you shall think fit against Popery, and other things fit to be redressed, and leave this.

Sir *Thomas Meres*.] Will not answer, though he could, many of the objections—The King seems to believe as if your thoughts were, that the Duke had intended this match only, and had not gone so far as is said—The King's answer is gentle, and nothing of a denial—Some may tell you that the Duke being not a crowned head, the proceedings already are not obligatory, especially being not consummated—As Princes move in orbs above us, so they have difficulties attend them greater than other men; those hardships they meet with may be prevented, and hopes that what we shall do may be with his Majesty's honour, and safety to his Royal Highness—Who thinks the Duke a Protestant? To marry a Papist gives great occasion of jealousies of Popery—Consider that there are two hundred persons to one in the people against Popery, and yet the people are afraid of Popery; he cannot imagine the reason of their fears but from these marriages with Popish foreign Allies, terrible to us in this case—As he loves the King, his Country, and his Royal Highness, would have you proceed with all steadiness—The King wants your advice, and calls for your advice; pray give your advice.

Mr Attorney *Finch*.] It will be in vain to consider of the form of this Address, when the matter will not bear one—Methinks we should never attempt to desire that which is not safe if granted, and if granted, not possible to be effected—Is not *causa præcontractus* subjecting the thing to debate in after-ages? Are we not informed that the Duke has proceeded to the *Sponsalia*, and all other formalities that can be? We know not what kind

kind of tumults these seeds may produce—He allows that these Marriages have been a handle to Popery, and the best flag in all their banners; but we know that he who first did so, died a Martyr for the Protestant religion—When Queen *Elizabeth* treated with the Duke of *Alençon*, that Queen would scarce let him have a Chaplain of his own—He knows of no Articles in this Marriage for public exercise of religion. Can this Marriage expose you to more danger than you can prevent? He considers the safety of the King; it is infinitely inconvenient that it should go abroad that the King has denied you this; but when the thing denies itself, expose not the Government, nor the Duke to the possibility of illegitimate issue—You have done all that with prudence and moderation you can do, and trust God and the King with your religion.

Mr *Harwood*.] We see not here whether the thing can be undone or no, but the best counsel we can give, we ought to give—Hopes it may prove so that it may be undone—At your last Addresses the people were wonderfully rejoiced; and will you leave here, when Religion lies at the root, and so much combustion is to be feared? This still sends us to the King. Should you not pursue, it would be thought we have no reasons for the thing: If all is done, yet we do our duty.

Mr *Powle*.] Cannot speak to this business without sorrow, when so many learned and honourable Gentlemen have told you, that the disease is past cure. The education of the children of this Marriage may ruin the Government in after-ages—When money is to be given, or any good thing done, still Popery spoils all. He observes, you have the Secretary here, that cannot tell you how this match was done; this is an evidence that the Council knew nothing of it: Parliaments have been consulted, and now not so much as the Privy Counsellors—Surely here is some great precipitation in this privacy of carrying it—It is said, that it is so far proceeded in, that it cannot be recalled. In the instance of *Maximilian*, both the Succession of *France* and *Spain* depended upon it,

yet no question was ever made of either of those Successions—It is said, “the King’s word is engaged;” the King is under an oath at his Coronation, and has reiterated all his promises, and these will weigh more with them, than any consideration with foreign Princes—Dreads the question of Succession to be disputable, but does as much Queen *Mary’s* days; a Papist Princess. Since the Duke is so near the Crown, let us take care his Children may be Protestant—The Parliament, upon their knees, desired *Henry VII.* to marry the Princess *Elizabeth*, daughter to *Edward IV.* and they interposed with the very person the King was to marry—If this Marriage goes on, we may return home, bewail, and pray, having nothing else left us for our portion.

Mr Secretary *Coventry*.] Before he came into the Council, Lord *Peterborough* was employed about the other match, and Lord *Peterborough* has had the very same instructions for this.

Upon the Question, Whether an Address should be prepared to be presented to his Majesty, concerning the Match between his Royal Highness and the Princess of *Modena*, it passed in the Affirmative, 184 to 88, which number was criticised upon [and a Committee was appointed to prepare an Address accordingly.]

Mr *Cheney*.] Moved for declaring the opinion of the House about the Test, in the Act of Popery, how far it does reach to your own Members,

Mr *Garroway*.] Is against the form of Mr *Cheney’s* motion, though not against the matter—Would have a Bill, that every Member may take the Test here; and would have it go higher, into the Lords House, that those that have a share in the Law-making, should be of the same Religion.

Sir *Robert Howard*.] Without a thorough care, we shall be in a worse condition for Religion than before—The destiny of a Heretic determines what they will do with us—Would have such a Test fitted for nothing but what the Papists may reject—It is necessary, that where any fountain is, it may be pure; and he would have the Protestant

testant Religion pull up the very roots of Popery, wherever they grow—Would have it reach all under the notion of Protestants, and be calculated for Popery only.

Mr *Cheney*.] Thinks that his motion is well improved—He would have former laws for Popery inspected.

Sir *Nicholas Carew*.] Thinks it will be too great a clogging the Bill, but would have it so as to clear the House of Lords, and the Court, of Papists.

[*Resolved*, That a Bill be prepared for a General Test, to distinguish between Protestants and Papists; and those that shall refuse to take it, be incapable to enjoy any office, military or civil; or to sit in either House of Parliament; or to come within five miles of the Court.]

Friday, October 31.

Debate on his Majesty's Speech, which was read, by Order.

Sir *Thomas Lee*.] The Consideration of this is proper for a Committee of the whole House, to debate the matter more freely.

Sir *John Birkenhead*.] Some parts of the King's Speech are not so proper for a Committee; we agree, in the House, about Money, *quod sit*, before we go into a Grand Committee.

Mr *Boscawen*.] In the King's Speech there is "Money" in the first place, and "Money" in the last; all "Money:" Therefore would have it debated in a Grand Committee.

Mr *Cheney*.] Has heard that the *Dutch* have some thoughts that we might come into the Peace immediately; then there can be no necessity for Money—Moves, that if the *Dutch* do not, in some time, agree to an honourable Peace, that we may supply the King—It is in vain to give Money, if not applied to the purpose we intend it—Before any thing of Money be, moves that we may come to this Vote, "that if, in two months time, the *Dutch* come not to an honourable Peace, we may assist his Majesty as becomes us."

Mr *Sacheverell*.] Has ever understood, that giving of Money ought to be debated at a Committee of the whole House, where we may lay open our Grievances, which are very many, with the more freedom.

Sir *John Duncombe*.] It has not been usual to go into a Committee, without directions from the whole House—For Religion you have proceeded very prudently in—Cannot but advise you to make peace at home; people will quiet their passions best with calming all at home, if men could be satisfied, and not afraid of their own good—Would now go into this business of Religion: That burns in every man's heart, and he sees every man's face full of it, and that is the beginning of the King's Speech.

Sir *Thomas Meres*.] There are Orders remaining upon your books, and practice—Says, upon search of ancient Orders, that the King's Speech was ever debated in a Grand Committee—Agrees with *Duncombe*, if we may not be surprized with rash Votes, that the House may rectify what surprize we may have upon us.

The House resolved into a Grand Committee.

Sir *Charles Harbord* in the Chair.

Mr *Ruffel*.] The business of this day is "Money"—Would rather be thought to mean well, and speak ill, than to betray the trust of his Country—Would not vote things hand over head; let us consider what we give this Money for, and consider that what we give is destructive to the nation (by maintaining this war) and the Protestant religion—The *French* King calls this war "a Catholic war;" and seeing we are upon so wrong a bottom, and if betrayed by those about the King, let us tell him plainly of it; former Parliaments have done it, and moves to pass a negative Vote upon "Money."

Sir *John Monson*.] In the *French* Gazette the Pope approves of the progress of the *French* arms; the last fight was, as if the *English* and *Dutch* had been the Gladiators

diators for the *French* spectators *—If the Prince had been well seconded, there had been an end of the war, and the *Dutch* must have begged a peace of us—We gave two millions to set out but part of a Navy for a Summer—What greater encouragement can be given to the *Dutch*? Our native commodities give no price; want of coals makes us want fire, and floods have destroyed grafs and hay: fire and water against us! We have want of people; many are sent away, and he will say nothing of the end for which they are sent; therefore moves “against a Supply.”

Mr Secretary *Coventry*.] Knows not that ever the House of *Austria* had the name of *Hugonot* amongst them, though *Holland* joined with them—We can have war with *Holland* without Religion in the case; they once had the *French*, as we have now—Concurs for the establishing the Protestant Religion at home; if not found in the vitals, we shall never be found in the limbs—If the King had wasted his treasure for magnificent buildings, or palaces, would be against giving money; but if, for not paying some few taxes the nation may be lost, would have Gentlemen consider of it—Avers that the *Dutch* have not made any proposition, only a piece of one, “for the flag;” and “if we will quit the King of *France*, they will then tell us more, and they are allied with the King of *Spain*, and *Lorrain*, and cannot agree without them”—You yourself, Sir *Charles Harbord*, have been obliged by the *Hollanders*; he has served there under them in their army, and honours the *Orange* family before any, next to that of his own Prince, and loves the country; but consider they have provided a great fleet against the Summer, and you will give no money, and so have no fleet; which way will you secure the Plantations and *Tangier*? If you think they will give peace, it will be such a one then as to a

* A desperate engagement had happened with the *Dutch*, on the 11th of *August*, in which the brave Sir *Edward Spragg* lost his life; while the *French* remained quiet spectators, disobeying, or pretending not to understand, Prince *Rupert's* orders.

people they contemn—If you come upon a vote of “no Money,” it will be as fatal as that of the Long Parliament, of “no farther Addresses to the King”—Were a man jealous of his wife, would he make her poor and naked, and force her to put herself into the arms of another man?—Concludes this vote to be the most fatal blow you can give the nation.

Lord *Cavendish*.] Here is Money asked of us to carry on a war we were never advised about, and what we have given is turned to raising of families, and not paying the King's debts—There is so little fruit of the Addresses of the last Session, that we now find greater Grievances, as Articles of War and martial Law—The nation's interest is laid aside for private interest—Supposes that what we gave the last Session may be a sufficient Supply for the war, and moves for a negative “against Money.”

Colonel *Strangways*.] It is a sad condition we are reduced to, and who have reduced us to it is a secret not yet come to his knowledge, and in due time may be considered—If you shall pass negative Votes, what advantage do you give your enemies in such a Vote? Are you sure you shall have Peace? Would never have the King hold his Crown of the King of *France*—Desires we may not depend for our security either upon *France* or *Holland*—The *Hollanders* are a trading and a subtle people, and would have a fleet set out—He aims at this; begin with Grievances and your Liberty—*France* has entangled us; the public articles are ill enough; what are then the private articles? We are to provide sixty ships, and the *French* thirty—If the House does not assist the King, then the *French* come upon us for Breach of Articles—In a parliamentary way consider first “Grievances,” and then “Money.” The House of Commons keeps the purse; and never put the Question for “Money,” before you know what you shall have for it—But is against a negative Question.

Sir *Thomas Lee*.] When you gave away so much Money, then began the Alliance with *France*, and no debts paid, though Money given for it—The *Dutch* were not
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the aggressors in the last war, when we were weary of fighting alone; now the *French* are weary of us, and will fight alone; when we gave Money for a fleet and had Peace without it! Now we are the support of the Crown of *France*, *England* may be as necessary to *France* as other countries, and so they may conquer us—The kingdom is ever safe when Money is in our purses; we may have occasion to use it perhaps, to defend us against *France*—Must we give five millions more to have what we might have had without it? Must Money be given both in War and Peace? Concurrent aids were never before heard of, Money having been the foundation of our Grievances to raise a standing army; the marine regiments paid to this day; now, instead of five-pence, they take six-pence for their quarters—*France* once would invade us, and now is our friend. Still more men are raised; so many in a company are, indeed, disbanded, but the officers remain. This is your standing army, and it is Money still that maintains this army—Fifty *per cent.* upon our goods in *France*, and yet the war with *Holland* upon account of Trade—Money for League, and no League, War and Peace—Moves to have the kingdom once free from taxes.

Sir Robert Howard.] Is sorry to hear this Question moved for in the negative; this will utterly shiver all our hopes in this Vote—Consider the arguments; “to maintain an ill Alliance”—We have brought about the *French* Alliance to us, whilst united to *Holland*, and both navies were against us—Religion is not the case, but interest—If Money be ill managed, any body may see it; he (as Secretary to the Treasury) will give an account of it, and ask no time to do it, Registers being all in order; the Money all gone out to public uses—You must have the nation poor if we have Peace, if we give no Money—What will the *Dutch* say to this negative? Will you shake the King in it? You say the Papists have power; by this you give more way yet to have it; they have their Counsels to give the King by such a Vote: We are going now to make a purchase, and before we get our Religion and Properties by this purchase, we throw away
all

all by this Vote—He must be a God that can say, “there shall be no enemies, and we shall have Peace;” and yet we do so by this negative—Let not the word of King and People be lost now—*Seek ye first the kingdom of Heaven, settle Religion, and all things will be added*—Go in a parliamentary way for “Grievances” and “Religion,” and think of this Vote last.

Mr *Sacheverell*.] Is one of those that think “giving of Money” one of the greatest Grievances—It seems to him, that those villainous Counsellors, that persuaded the King to make this war, have deceived him in this Speech; do not they know of the unpaid Taxes granted the last Session, with the Prizes and the Customs? It seems to him like the first design—These Gentlemen would have only a Bank, that they may carry on their design, and use you no more—He abhors it—It was said before, “Give money, and Grievances shall be redressed”—This army is so insolent, that they may turn you out of doors—If “redress of Grievances” be an argument for “Money,” you will never want “Grievances”—Will you not heighten *France*, by giving more Money, and make him more friends, that he may at last have dominion at sea, which we now contend for? And, by this negative, we may deliver ourselves both from *France* and *Rome*.

Sir *Eliab Harvey*.] Giving of Money now is certainly to ruin King and kingdom—Give Money, and you destroy the revenue of the nation, Wool—You are letting the King of *France* be the Merchant of the whole world—By falling out with *Spain*, we spoil the best Trade we have—He has kept one hundred men at work upon the Woollen Manufacture, and now cannot keep one: Will you set the Woollen Manufacture up in *France*?—Lose the *Straits* trade, and you must land all your commodities at *Marseilles*, and bring them over land, and so *France* and *Holland* will out-trade you, by the great expence we must be at by inland carriage.

Mr *Bennet*.] Both at home and abroad people would be glad of this negative—He has much to do in the world,

world, and knows the poverty of the nation ; but would not have it thought that we are unable to raise the King Money.

[Sir *William Coventry*.] Is as unwilling to give Money for the maintenance of this Alliance as any man, [it] being destructive both to trade and religion—Generally the rigours in religion, in states, arise from interest rather than religion ; formerly *Spain* was more rigorous in religion, and now *France*—*Spain* now assists *Holland* ; and *France*, by supporting the Pope, makes herself considerable amongst the Catholics—The Instructions to the Pope's Nuntios, as the *French Gazette* informs him, (he is privy to foreign affairs no farther) are, not to hinder the progress of the *French* army : *France* would not let the conquered towns in *Holland* have Articles, unless they accepted Priests, and gave maintenance for them—He thinks not That religion the interest of the House, nor the War ; we may be at war with Protestants, but hopes never against Protestantism—The *Dutch* are formidable against your growing rich, but, since the Act of Navigation, we have grown upon them, not they upon us ; they have only gained upon the nutmeg trade since *Amboyna* business, but, in all other parts of trade we grow upon them ; their *East-India* trade, notwithstanding those prizes, comes not to above five *per cent.*—It is vain to think that the *European* trade can be maintained by us by a war ; only in *Guinea*, or other barbarous countries, we may gain a port, but not for *European* trade—What probability is there, if we beat the *Hollander*, that we shall get all trade ? But it is industry and parsimony, and by underselling us—Suppose we beat them, what think you they will be beaten hither ? The last summer but one we beat them low enough, but with all the invitation that could be given them, few of them came hither ; you may beat them into *France*, *Sweden*, or *Denmark* ; any where but here—Who will come to us, thus divided, as we are, in jealousies, and fears of Popery ? He that knows least, has most fears—A stranger knows not what you have in your heart—We all know that

that we shall not stay if Popery prevail—Pray God they will let us go away alive, considering the Inquisition!—He has said enough to give reason for his negative for “Money”—The *Hollanders*, in all reason, had better have no quarrels. But upon the King of *France*’s account, if we leave him, his difficulties will increase—It is strange that we and *Holland* should be divided by one, whose interest is destructive to us both—When we go by ourselves, we may have a fair peace in all probability, going upon a pure national account—Would not have it out of the House’s power to assist the King—He is not so confident of the *Hollanders* good-nature in a peace, but doubts not, but upon Money granted upon good grounds, we may be sure of a peace; yet for all this he is not for Money—But as for *Sacheverell*’s Question, of “not giving for so many months,” he is not for it; for in that interim we may be beaten; but if thus, “we find no cause to give Money, untill the Grievances of the nation be redressed.”

Sir *Henry Capel* *.] If this war was for the maintenance of the Crown and Nation, would venture all he has, life and fortune, for it: He is descended from one that lost his life for maintaining of both—Would know how we came into this war, before we give Money to it—Is not for giving Money for the war, but not for a negative, “no Money;” and doubts not but the King will redress our Grievances.

Sir *Robert Carr*.] Moves to proceed in a parliamentary way—Proceed to your “Grievances,” (if you have any) and the King will give you redress. (*Laughed at.*)

Lord *Cornbury*.] Here is now a Question proposed, and he agrees with *Coventry*’s Question—It will be wondered that he should be against “Money”—Some men have been under prejudice for giving votes, and that may possibly be a Grievance—All he has is from the King,

* Second son of Lord *Capel*, (who was beheaded for his loyalty to King *Charles I.* in 1648) and brother to the Earl of *Essex*. He was created Lord *Capel*, of *Tewksbury*, in 1692, and died Lord Lieutenant of *Ireland*, in 1696.

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and he would willingly give it again, if he calls for it; he has begged for the King, and wanted for him, and would willingly do so again—*Carr* says, “if there are any Grievances;” he wonders at it, when so many have been opened to you—The last tax could not be anticipated; besides the customs, excise, and the prizes—Some cannot get their money due to them, glad to be content with half; those that have interest get all—Would vote, “that Money be not considered till Grievances are redressed.”

Mr *Garroway*.] Ruin of Trade, loss of Religion, no Grievance! Papists threaten us in the very Lobby, to our faces; soldiers raising money; a war; the *French* King broke the *Pyrenean* league, conquered *Lorrain*, the King of *Spain's* country, *en passant*, and this a good Alliance! And now the Question, whether Money or no Money to maintain this league, and no enquiry made into what remains of what we have already given—Lands turned into our hands, (as it is his good fortune) and no Grievances neither! As to our sea war, the *French* give us money, and they come to see how we fight for it—One clapped up in the *Bastile* for fighting*—Where will there be an end of the *French* conquests? If any fleet be to be set out, we may do it time enough—Moves, “That till this tax be expired,” (which will be *August* first) “we may give no Money;” and then, if occasion be, would give, but till then, would not.

Sir *John Hotbam*.] Comes from a place so impoverished, [*Beverley*,] that it is impossible to raise money there, and that place is much impoverished by soldiers already; they quarter there in private houses, and one person [was] fined, because he would not render his house and bed to the soldiers—You have now an army, and it is grown a principle amongst them, (an ill nursery for young men) that Parliaments are roots of Rebellion, and *Magna*

* In the sea fight of the 11th of *August*, the *French* Rear Admiral *Marset*, who was not in the secret, fought in earnest; for which, at his return to *Paris*, he was committed to the *Bastile*, and the relation of the battle, which he had prepared, was suppressed.

Charta sprung out of them—Money is the way to continue these persons, and no Money, to disband them; therefore is “against Money.”

Sir *John Shaw.*] A person [being] dangerously wounded by a soldier at *Colchester*, the Mayor sent for a commission officer; when he examined the matter, and heard the information, he desired the soldier’s sword to be taken from him, which was done. An order came (from Lord *Ogle*) to remove some out of each company for *France*. The officer desired a discharge of the soldier, his company growing mutinous to have him released; the Captain confessed he feared mischief; he replied, “if the Captain raised the soldiers he should see they did no mischief”—There was soon after an uproar in the streets, and the soldiers came up to the Sessions-hall, with their muskets charged with powder and ball, which they presented against the Gentlemen upon the bench; he would have spoke, but the soldiers hallooed and made a noise, and he was constrained to adjourn the Sessions, and the soldier committed escaped, though the jail [was] not broke.

Mr Secretary *Coventry.*] Gave account of several cashiered for misdemeanor, and punished.

Sir *Robert Thomas.*] Complains of several Popish Officers in Lord *Ogle*’s regiment; ill Counsellors of law about his Majesty, who have justified the robbing us of our properties, till we are made so poor, that we cannot defend ourselves, and then is the time to bring in Popery.

Mr Attorney *Finch.*] Is of opinion that there are Grievances, and never expects such a healthful Constitution in the Body Politic, that shall be so equally poised, as to be without them—“Not to give Money” is at this time a Grievance not to be redressed in many ages—This is an *English* war, and no other—They are not afraid, in *Flanders*, of the Protestant Religion, because joined with a Protestant army—Would treat this matter with more temperament; surely, for the honour of our Prince, we must not treat crowned Heads, here, in alliance with us, as if they were our enemies—If we have
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but good trade, the *Dutch* presently make war with that Prince, in alliance [with us,] that we may have no trade with their enemy; commends much the piety of this, but sees not the policy—You are now in war, and you carry the purse—Supposing it such, and the alliance, as is said, yet in the condition we are in, it is absolutely necessary to support the war to the utmost of our power, the King being engaged with a Prince who has punctually observed articles—Suppose us weary of the war, yet the King of *France* is actually engaged with us, and has remitted many articles that would have obliged the King to much expence—The war we cannot get out of with a Prince loving his honour above his life; you may make it an unprosperous and a ruinous war, but you cannot make it cease to be a war; you may dishearten all the soldiers that are to go over, but if you make the *chariot wheels drive heavily*, yet they must drive on, if the King please to command it—If that war was now to be made, the discourse would be most seasonable; but now will be ruinous, and wiser men than he think so—The King may engage in a War, but when his people shall *storm* him out of it, the hour will come that his enemies wish for; for the *Dutch* will now be upon greater terms, having ever desired such a storm as the King could not allay—It is all one to the King whether his designs be checked at home or abroad—Is this agreeable to this House, wherein there is scarce a man that has not bled for the Crown? Moves, that whatever is grievous, either in Church or State, we may go upon, with all calmness and temper, and to do the King that honour (if with submission he may say it) that one day may be for “Grievances,” and the other for “Supply,” hand in hand, that the world may see you neither neglect the King nor yourselves.

Mr *Powle*.] We see Priests daily admitted into the King’s presence, and our Address (as he is informed) is but lately sent into *Ireland*—A Papist Major-General acting in disguise—Has not one told you (Sir *James Smith*) that he sat in a Council of War when the military Articles

cles were agreed to? Pressing, against so many Statutes, may reach your Members, and the Peers themselves; and this army has done nothing but the famous Expedition from *Blackbeath* to *Yarmouth* *—Shall never think that Privilege of Parliament is not violated as long as a Privy Counsellor sits in the Chair †—Members represented to the King in an ill sense for what they have said here—He that was the contriver of the Declaration‡, made Lord Privy Seal, the third office in the kingdom, and another||, as much concerned, made Chief Governor of *Scotland*—This is to bring in Popery in triumph—Would be glad to see promises made in Parliament, once kept in intermissions of Parliament—He cannot go so far in the Question proposed, as not to give any farther Supply till ten months; but at this time cannot give his consent to Supply.

Sir *Thomas Meres*.] With the length and expatiating [on] an argument oftentimes the edge of a thing is lost—You will be sure to have Grievances, if that be doctrine, that Money must be given when Grievances are redressed—If that Money, twice given in a Session, be not unparliamentary, yet there are twelve hundred thousand pounds granted in a year—Has seen so often Grievances pressed, and so seldom redressed, that he now has little hopes of having it; but it may be answered, we will be redressed first; but have we not seen people's spirits are a little wearied with long sitting, and that a few redressed pleases us? In short we are the best-natured House of Commons that ever sat—Consider what we do about Popery, in the Lords House, by putting out Popish Lords, a matter of inheritance, which will have Conference upon Conference, and we under great disadvantages—It was said, that Popery was but the handle for the ambitious and covetous, in 1641, to raise sedition—

* Part of the summer about six thousand troops were encamped at *Yarmouth*, under the command of Count *Schomberg*; from whence it was understood that they might easily be waisted over to *Zealand*, as

soon as the allied fleet had cleared the sea of the enemy. *Ralph.*

† Reflecting again on the Speaker. See the Debate on that subject, p. 186.

‡ Earl of *Anglesea*.

|| Duke of *Lauderdale*.

When

When we speak of a standing army, we are answered, "Cannot the King raise what men he pleases?" and to the *French* league, "Cannot the King make leagues?" Yet the Gentleman said, "the King cannot have Money without the House of Commons—What war can the King make, when the House of Commons shall storm him out of it?" To which thus he answers: In such great wars as this, and in most wars, the Kings of *England* have advised with their Parliaments; believes that it might be the King's intention to do so, however advised to the contrary; we owned not the war in the last tax—The King may make war, but the House of Commons may or may not give Money—Other Grievances there are, as evil Counsellors; to which it will be said, "Cannot the King chuse his own servants?" And that is plausible. Should these things be amended, he would give "Money."

Mr *Stockdale*.] If we were able, as we are not, it is not now a time to give at all—The Question is a single Question, "Whether Money or no Money, till this tax be out?"

Sir *Thomas Lee*.] This Question is for the King's service now, more than ever—Has great reason to believe, that the King needs it not; because one has told you [Mr Attorney] "that the King of *France* has released several chargeable articles in the treaty"—As for the carrying on the war, we look upon it as a Grievance. "The Parliament may talk, say the people, but still you give Money"—Fears not proroguing for not giving; but if you show yourselves [willing] to give "no Money," the King will be restored to the affections of his people, when they shall see that "Grievances" are redressed without "giving of Money."

Mr Secretary *Coventry*.] Nothing is so wise nor so obligatory to the King, as to redress "Grievances" without "giving Money;" but as far as he is Master of his own life, he had rather lose it, than you should pass this Negative Vote.

Mr *Garroway*.] *Coventry* tells you how the *French*
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have conquered; but now the case is altered, it might have been wished the Tripartite League * had stood—Is sorry for the Attorney's expression, of being "*stormed out of a League*"—The Prince of Orange will be a good Advocate to keep the *Hollanders* in war with the *French*, that he may be continued General; but would never have such a peace as the *French* shall assign us—We are more put to the blush about redress of Grievances, than for any other thing; those that have been the promisers have been the opposers—The proroguing will do us as much good as it did us a prejudice, and, if need be, we may be suddenly sent for again—Is for the Question.

Mr *Howe* †.] Is dissatisfied with the person that is to have the Money in his hands, the Speaker.

Sir *Thomas Clarges*.] Cannot apprehend such an imminent necessity of giving, as Solicitor *North* says there is—The remaining Taxes, the Customs, the Revenue, and Prizes, and for one reason above all, *viz.* four hundred thousand pounds given away in donatives—Does not repine at the King's Bounty, but apprehends no necessity of giving by it—Thinks that the Counsels, now prevalent, design the ruin of the King, the Duke, and the kingdom; the *Irish* Grievances not sent away above ten days ago; Priests and the Lord Almoner at Court; fifteen hundred and two thousand guineas given to officers disbanded; thirteen, fourteen, twenty Popish officers taken in, and the *French* regiments filled with them, and some ordered not to muster, to prevent discovery—Acts of Parliament can do nothing; as these men have, notwithstanding, taken up arms—It looks like treason in levying War without commission—When he was at

* The Triple Alliance between *England*, *Holland*, and *Sweden*, was formed in 1668. The design of it was to support the *Spanish* monarchy, restrain the exorbitant power of *France*, and prevent a dreadful war, in which all *Europe* would probably have been involved. It was therefore generally applauded,

and seemed to be, in all respects, the wisest measure that was taken in *England* during the whole reign of *Charles II.* *Smollet.*

† Brother to Sir *Scroope Howe*, and Paymaster General in the reign of *Queen Anne*. He died in 1721, and was grandfather to the present Lord *Chedworth*.

Paris, the *Holland* Ambassador told him, “ You have broken your faith with the Bankers; *France* an absolute Monarchy, and you a limited one; no help nor advantage by your Alliance”—The Chancellor is Keeper of the King’s Conscience, and the Treasurer, of his Word—The Bankers broken, and Exchequer shut up, in *January*, and we to meet in *March*—They have persuaded the King to ask to pay the Bankers, and they are already paid, by the sale of the fee-farm rents, six hundred thousand pounds—Subsidy, Excise, Law-Bill by this—Where shall we find treasure to supply these exorbitances—These evil Counsellors intercept all the King’s goodness; no good is to be hoped for till they be removed—It was insinuated that the last Supply would give us Peace in a few months; we then considered not the War, nor the Alliance—Our duty to the King overcame all those enquiries; and since there appears no want of Money, put the Question at the largest extent, as first moved.

Sir *Thomas Littleton*.] Cannot imagine that such consequences as are alleged will attend the putting the Question, as penned, with the words retained in—Is persuaded that, if an effectual course be taken, as things change, men’s minds will change, and is not so terribly afraid of it; nor so dismal a Vote but as happy.

Sir *Edward Dering*.] By whose hands are we tied but by our own? Should we be tied by any other, we cannot go back with honour, nor forward with safety—Would leave the words of the “ eighteen months tax” out of the Question, without which we can neither make an honourable Peace, nor safe War.

Mr *Boscawen*.] Would make no other use of the Vote but in order to Peace—The great Grievances have been by pretence of the War, the rest but trivial: The War, at the first, was against the advice of the whole body of the Merchants, only some particular men that had losses—Thinks the Peace a good Peace, and the Triple League much for the satisfaction of the nation—Some trifling injuries were done to the Merchants at *Surinam*; as if a man, with a flea on his forehead, would strike it off with a beetle—

Would make use of that Vote, that we might have a Peace—It is better to deny an aid to the War than to meddle with a Peace—We never deny Money when there is a just occasion for it, it were to deny self-preservation.

Sir *William Coventry*.] Hears it said, “that the King cannot go off with honour from his alliance with *France*,” and what then shall we say of the Triple Alliance, that the peace of *Christendom* was so much concerned in, so solemn, as to be sworn to by the King of *France*, and registered in the Parliament of *Paris* by that King’s command, but yet renounced by him, because not consistent with the good of his people—*Munster* made a war with our Money; it was not for the good of his subjects, it seems, and he made peace with *Holland*—The same did *Brandenbourg*—The King of *France*, by the *Pyrenean* treaty, was not to assist the King of *Portugal*; it was not for the good of his people, and he broke that treaty—Princes have ever done it for the good of their people, and if we live by another rule than they do, we shall have the worst of it—Now has the King of *France* kept treaty with us, as is said? Knows not what the private articles were, but surely they were made unfortunately, that we should have no share in this conquest—Has he kept his word with us? He was to send thirty ships for our sixty; had that conjunction been as it should be, they would have fought—Has heard but of two Captains killed in the *French* fleet, and one died of an unfortunate disease (the Pox)—Thinks we had no advantage by their company. One unfortunate Gentleman did fight, (*Martel*) and because that Gentleman said, (as he has heard) “That the *French* did not their duty*,” he is clapped up into the

* Dr. *Campbell*, in his *Lives of the Admirals*, has preserved the conclusion of *Martel*’s relation of the battle; which, it seems, had found its way to *England*, and was published in a piece called, *An exact Relation of the Actions of the Fleet under Prince Rupert*, printed anno 1673, and was to this effect: “That if Count

D’Estrees would have fallen in with a fair wind upon *De Ruyter* and *Banckert*, at their first engaging, when in numbers they much exceeded the Prince, they must of necessity have been inclosed between his Highness and *D’Estrees*; and so the enemy would have been entirely defeated.”

Bastile. "His own squadron," he said, "deserted him;" his Captains said, "upon secret orders, which they had." *D'Estrees* sent positive orders not to fight, unless by word of mouth, or by writing; and if that man that brought them, had been knocked on the head, no orders could have been had; "no regard to be had to Prince *Rupert's* signals," (which is the custom at sea) "*D'Estrees* must, by a Council of war, know whether the Prince's orders were good orders or no"—Could a fleet coming with such orders, ever be serviceable to us? Thinks it better we had no fleet—Thinks not so highly of the *Dutch*, nor meanly of ourselves, but that we may do well without the King of *France*—An indifferent Casuist will say, having been so used, that we are absolved from an alliance so ill maintained—The interest of the King of *England* is to keep *France* from being too great on the Continent, and the *French* interest is to keep us from being masters of the Sea—The *French* have pursued that interest well—*Martel* has fought too much, or said too much, which is his misfortune—Moves to insert in the Question, "unless it shall appear that the obstinacy of the *Dutch* shall make a Supply necessary."

Mr *Garroway*.] *Spain* says, "Have peace with *England*, and war with all the world"—We lost sixteen hundred ships in the last *Spanish* war, great and small—As for *Duncombe's* argument of building ships futurely, Money may be had; the *East-India* Company had it at four *per cent.* for the prizes—You may have a short Bill for the remainder of the last Supply, which is not at all engaged to any other use.

Sir *Thomas Littleton*.] Doubts not but "Redress of Grievances" will alarm the *Dutch* more than any Supply we can give.

Resolved, "That this House, considering the present condition of the Nation will not take into any farther Debate, or Consideration, any Aid, or Supply, or Charge upon the Subject, before the times of payment of the eighteen months Assessment, &c. [granted last Session] be expired; unless [it shall appear, that] the obstinacy of the *Dutch* [shall] render it necessary;

ry; nor before this Kingdom be effectually secured from the dangers of Popery, and Popish Counsels and Counsellors, and the [other] present Grievances be redressed."

Mr *Powle* reports from the Committee the Address to be presented to his Majesty, concerning the Match between his Royal Highness the Duke of *York*, and the Princess of *Modena*; [which was agreed to by the House, and is as follows:]

"WE your Majesty's most humble and loyal Subjects, the Commons, in this present Parliament assembled, being full of an assurance of your Majesty's [gracious] intentions to provide for the establishment of Religion, and the preservation of your People in peace and security; and foreseeing the dangerous consequences which may follow the Marriage of his [Royal] Highness the Duke of *York* with the Princess of *Modena*, or any other [person] of the Popish religion, do hold ourselves bound in conscience and duty to represent the same to your [sacred] Majesty; (not doubting but those constant testimonies [that] we have given [your Majesty of our true and loyal Affections] to your sacred Person, will easily gain a belief, that these our humble Desires proceed from hearts [still] full of the same Affections towards your sacred Majesty, [and] with intentions to establish your [Royal] Government upon those true supports of the Protestant religion, and the Hearts of your People) with all humility, desiring your Majesty to take the same into your Princely Consideration, and to relieve your Subjects from [those] fears and apprehensions [which at present they lie under] from the progress [that] has been made in that Treaty.

"We do therefore humbly beseech your Majesty to consider, That if this Marriage do proceed, it will be a means to disquiet the minds of your Protestant Subjects at home, and to fill them with endless jealousies and discontents, and will bring your Majesty [into] such Alliances abroad, as may prove highly prejudicial, if not destructive, to the interest of the very Protestant Religion itself.

"That we find, by sad experience, [that] such Marriages have increased and encouraged Popery in this kingdom, and given opportunity to Priests and Jesuits to propagate their opinions, and seduce great number of your [Protestant] subjects.

"And we do already observe, how much that party are animated with the hopes of this Match, which were lately discouraged by your Majesty's gracious concessions in the last Meeting of this Parliament.

"That

“ That we greatly fear, this may be an occasion to lessen the affections of the people to his Royal Highness, who is so nearly related to the Crown, and whose honour and esteem we desire may be always entirely preserved.

“ That, for another age, at least, this kingdom will be under continual apprehensions of the growth of Popery, and the danger of the Protestant religion.

“ Lastly, we consider, That this Princess, having so near a relation and kindred to many eminent persons of the Court of *Rome*, may give them great opportunities to promote their designs, and carry on their practices amongst us; and, by the same means, penetrate into your Majesty’s most secret councils, and more easily discover the state of the whole kingdom.

“ And finding that, by the opinions of very [many] learned men, it is generally admitted, that such treaties and contracts by proxy are dissolvable, of which there are several instances to be produced, we do, in all humbleness, beseech your Majesty to put a stop to the Consummation of this intended Marriage.

“ And this we do the more importunately desire, because we have not, as yet, the happiness to see any issue of your Majesty’s that may succeed in the government of these Kingdoms; which blessing we most heartily pray Almighty God, in his due time, to bestow upon your Majesty and these Kingdoms, to the unspeakable joy and comfort of all your loyal Subjects, who desire nothing more than to continue under the reigns of your Majesty, and your [Royal] Posterity for ever.”

[*Resolved*, That this Address be presented to his Majesty, and that the Lords of the Privy Council, Members of this House, be desired to attend his Majesty, to know his pleasure when he will be attended therewith.]

[*November 1.* omitted.]

Monday, November 3.

[*Debate on Grievances.*]

Sir *Thomas Meres*.] Several Grievances were enumerated the other day—For that of Popery directions were given for a Bill to be drawn, which is near finished—The next Grievance he thinks fit to propose is that of a “ Standing army,” taken by every one as a “ Grievance.” Some said it was to land to beat the *Dutch**; but it turned off, it seems, to take *Harwich*, as you have been told. He

* See p. 208.

has been informed that they are of no service; the King's treasure is wasted by them, so that aids are asked twice in one year—Loves not to be the first man that moves a thing, but would now form you a Question, “That this Standing Army is a Grievance” The reasons for it—It brings in the billeting of soldiers, against the Petition of Right—The last Session they took five pence from persons to be exempted from quartering soldiers, and now it is raised to sixpence, not only in inns and alehouses, but in private houses (a man's house is his castle) contrary to the privileges of the *English* subjects—You are told also of Martial Law, made for the governing these men, against all the laws of *England*. Martial Law has arbitrary principles and arbitrary power—We like not these arbitrary principles in any Councils—This army has the youth of the nation; it debauches them, and fills them with such principles, that towns by them are debauched; common violences they commit; he will only remind you of that at *Colchester* * and in *Surry*. Besides the “*French League*” and “evil Counsellors,” this is still a terror in our fears of Popery—If any one of these are left out, it will help to set up the other three—Asks, at last, That this may be voted “a Grievance;”—The others are “Grievances,” but the army is a *Legion*; and, to follow the metaphor, hopes they shall not be *choaked in the sea*, nor cast away beyond sea, to support this alliance, but disbanded.

Sir *Eliab Harvey*.] Knows of abundance of Petitions that will be presented you, against these men—If you send them abroad, they must be turned Catholics, and so many sent us back again—Hopes you will vote it “a Grievance.”

Mr Secretary *Coventry*.] Would have you agree upon terms, what is “an Army,” and what “a Standing Army”—Knows not why they are called *Legions*, for among the *Romans* a *Legion* was a band of two thousand men—He is unwilling that his country should be exposed; but now you are in a war, thinks not that you

* See p. 206.

intend

intend that the King should fall down, and beg a peace of *Holland*—They know what your trained bands are, since the business of *Landguard* point—For the King to raise troops is not against law, but for those troops to be disorderly is against law; but if such a Captain, or company, has done ill without order, it is no “general Grievance”—Two Vintners killed two Gentlemen; shall Vintners therefore be “a Grievance?” Some Merchants robbed upon the highway; must all Merchants therefore be “a Grievance?” The Gentleman is not well informed about Martial Law; it is as it ever was—In Lord *Strafford*’s command, and the Earl of *Holland*’s, when he disbanded the Northern army, and those of Lord *Effex*’s army (we may learn of our enemies) these were compared with all articles, and the best were extracted, and you will find them no *French* articles—Hopes you will not say, it is not in the King’s power to raise men, but let Gentlemen show you any disorders owned by authority, and it is another case—But how will you vote this “a Grievance,” when there is no illegality in it, only exorbitances of particular persons? Hopes you will not vote it “a Grievance.”

Sir *Thomas Lee*.] Thought, that, though the practice of accumulative treason against Lord *Strafford* was condemned, yet his setting up Martial Law was justly disapproved then—The oaths in the articles, he is sure, are not legal—But you are told of “Vintners” and “Merchants,” and “that these exorbitances are not allowed;” but if we have no Grievances till they are allowed by Authority, we shall never have any—But they are to have another sort of tryal than other men, and that makes them a terror—You have been told this morning, “that upon their marches they have been quartered in private houses in *Hampshire*, and that they made people bring out their provisions, or they would take them by force in their marches.” They are taught to believe that they may do it; and should you make this Address to the King, he would find it “a Grievance” as well as you—You are now arming the King; nothing disarms him more than these exorbitances

ces—But must these dragoons ride over the sea? We have no wooden horses to carry them, and by this you give the *Dutch* great advantage—We had success by the militia in 1588; you had no army but them at that time—It has ever been the custom, that when men have been thus raised they have been complained of as “a Grievance,” especially we wanting hands and mouths now in the nation; and would now have it voted “a Grievance.”

Sir *Robert Howard*.] Has heard a worthy Knight (*Clarges*) talk of things he did not understand—What attains your end, and that the King and you may ever be together, would consider as fit to present the King—If it was “a Grievance,” possibly the condition of the thing was no Grievance when first raised, and the face of things [may be] now changed, and the use of those people not the same—The *Hollanders* may think any thing “a Grievance” done against them here—If there be not an intention of “a Standing army,” which we know not, it is too hasty a Vote—Would not have any distrust betwixt the King and us, and would give no argument to the King to apprehend it—Present only “an army now in being and no occasion for it;” lay only your duty before his Majesty, “that it may be a terror to the people, as you apprehend,” and tread in the easiest steps to him.

Sir *Henry Capel*.] You have been told how difficult it is for armies and properties to stand together—Is not of that opinion that they are a security to us at home; knows nothing of affairs at abroad—Our security is the militia; that will defend us and never conquer us—Our defence abroad is our ships, the seaman’s pay, and peas, and his coarse diet, well given him—Moves to vote this army “a Grievance.” Is indifferent whether the army be disbanded now, or after the War—Abroad they are of little use, and at home wholly useless—Therefore would have it “a Grievance.”

Lord *St. John*.] In the former King’s time, a much less thing than this was voted “a Grievance;” and now an army in our bowels all this summer and no employment

ment for them, and for the county he serves, [*Hampshire*] he is particularly obliged to represent it as "a Grievance."

Sir *Thomas Clarges*.] *Howard* began his discourse with a reflection upon him, "as meddling in a business he did not understand." If what he said of donatives of four hundred thousand pounds since *May* last, gave him the occasion, he is ready to prove it by several warrants, if required—At the Restoration of the King, after that army (which was once against him) was disbanded, the King did raise some men to be kept in pay till men's judgments were quieted; but now so many new-raised forces, with their consequences and their demeanours, are such, that it is "a great Grievance"—Will not say it is fit now to disband them all; but at the conclusion of the last War some were made standing regiments, and fears now, after the War, it will be the same again—But the King is not minded of his promises by those that should do it; he is persuaded that the King would do it, but forgets it—But the raising money, and fifteen or sixteen to quarter in a poor alehouse, full of children, is "a Grievance;" and those regiments that did this, the *Scotch* and *Irish* regiments, would have them, however, disbanded.

Mr *Harwood*.] The King has many things laid upon him that he has not done—The King raised not these men but his Counsellors, who have got by these things—How many Addresses against Popery, and yet Papists put into command! He that commands our men in chief is a stranger*, and he next in command a Papist†—Cannot wonder at those persons that have spoke against these things as "Grievances." Were he as they, possibly he should say so too; but they cannot think so—We are come to that pass, that no Law can restrain these people; houses taken from us, our lives in danger; he cannot say one has suffered death by them,

* Count (afterwards Duke) *Schomberg*, killed at the battle of the *Boyne*, in 1690.

† Earl of *Fewersham*, a *Frenchman* by birth, and nephew to Marshal *Turenne*.

but

but some have been soundly fwinged—Would vote it a “Grievance.”

Sir *Robert Carr.*] No man can say, that a Standing army, in a time of peace, was ever attempted—Most of the forces were about *Norfolk* and *Suffolk*, where the *Dutch* have attempted landing—Your Addresses formerly were “to disband them, when the war should be ended,” and will you now do it “the war in being?” It is not for your service—Some persons gave this six-pence a day to the foldiers, by their own choice, to avoid quartering—The articles, mentioned, are only to keep them in order—If you will make an Address to the King, and not a Grievance till redressed, he is not against it.

Sir *Richard Temple.*] The practice of these men is “a Grievance”—He knows no Law that can empower them to raise money; the continuance of them will be more “a Grievance,” and what is an oppression, is “a Grievance”—Would have it voted only, “that the billeting and continuance of them is a Grievance,” but not “the raising them.”

Sir *Nicholas Carew.*] These new-raised forces are but raw men; the Militia is full as serviceable.

Mr *Powle.*] Answers Mr Secretary *Coventry*—Whatever body of men are raised for no use, are “a Grievance;” he thinks “the raising them a Grievance”—These forces were not raised for the war, but the war made for raising these people—He is no soldier, but has conversed with such as are, and they hold a descent into *Zealand* impossible; for the enemy might, at any time, get betwixt them and the land with their fleet, and, if landed, hinder recruits—They are glad that the Militia may be useless, and the Gentlemen that serve in it are put upon chargeable employments, but in *Chatham* business were not thought fit to command them; which has been such a discouragement, that many have laid down their commissions: When money or honour [was] to be got, then they were put out of command—As for the fleet, we are in a naval war, at least we are told so, and hopes it so, but the money is all spent upon land soldiers—You know that
in

in your * Office, the seamen are not paid ; the money being diverted to pay those landmen. Part of those men are drawn out of *Ireland*, and the Papists, last Session, were grown formidable there—Why are they not sent back thither ? We desire them not here, and they want them there—Our Laws to be thus awed ! The Law of *England* will protect the King—Knows not what these men will do ; but the veteran bands, at last, chopped, and changed, and sold the *Roman Empire*—The King himself may be no longer King, but at the choice of this army—Let the soldiers be paid, and you may have them again when you will—Quartering of soldiers, or buying them off, is an intolerable oppression—Why should an Ale-house-keeper, a subject, buy off his oppressions ? Soldiers to present their muskets in the face of a Court ! Would have it voted “ a Grievance.”

Colonel Kirby.] Hears it said, “ that these men were raised to no purpose.” Had you not had landmen, you would have had none to man your guns, and they would have been much put to it ; but for our regiment, you might have had no fleet—Before you move the King for disbanding, consider how you will maintain the war.

Colonel Birch.] Kirby has given you the greatest reason imaginable for disbanding these men ; he calls the men aboard a ship, “ our regiment ;” and he commands none of the new-raised men—He has ever told you, that this war was against the grain of the people, and then against their interest, and we were prorogued on, till the war was so far entered into, that we could not come out of it—No people can be governed but by perfect love, or perfect fear—We are asked, “ why this army is a Grievance now, and not when we were here last ?”—We saw not then what we see now. He saw them at *Blackheath* with their swords drawn ; it terrified him then, but, thank God, he is pretty well recovered since he came into the House—If this vote makes the *Dutch* insolent, “ giving Money” will be the consequence, and then all is well—The great River of *Babylon* was cut into

* The Speaker's.

small rivulets, and that destroyed the City, when nothing else could; so has our Money been diverted, he fears—Would have the Standing Army voted “a Grievance.”

Resolved, That the Standing Army is a Grievance.

Sir *Thomas Meres*.] Moves that some Gentlemen may draw [up] an Address to the King, showing “in what manner” this army is “a Grievance.”

[A Committee was appointed accordingly.]

[In the afternoon Mr Speaker reports, That, in pursuance of their commands, he had read, and presented to his Majesty, the Address of the House, concerning his Royal Highness's Match with the Princess of *Modena*; and that his Majesty was pleased to declare, “That it was a matter that he would take into his present consideration, and return a speedy Answer.”]

Tuesday, November 4.

After the Speaker, who came not to the House till ten of the clock, though the House was the day before adjourned to eight, had been called to the Chair by a great voice, he at last took the Chair; and then Sir *Robert Thomas* moved to take into consideration the business of “evil Counsellors, as “a Grievance,” hinted the other day, and would name one, “the Duke of *Lauderdale*.” The word was no sooner out of his mouth, but

* The Duke of *Lauderdale* had been for many years a zealous Covenantant: But in 1647 he turned to the King's interest; and had continued a prisoner all the while after *Worcester* fight, where he was taken. He was kept for some years in the *Tower of London*, in *Portland Castle*, and in other prisons, till he was set at liberty by those who called home the King. He was very learned, not only in *Latin*, in which he was a master, but in *Greek* and *Hebrew*. He was a man, (as the Duke of *Buckingham* called him to me) of a blundering understanding. He was haughty beyond expression, abject to those he saw he must stoop to, but imperious to all others. He had a violence of passion, which carried him often to fits like madness, in which he had no

temper. He was the coldest friend, and the violentest enemy I ever knew. He at first seemed to despise wealth; but he delivered himself up afterwards to luxury and sensuality. He was in his principles much against Popery and arbitrary government; and yet, by a fatal train of passions and interests, he made way for the former, and had almost established the latter; and whereas some, by a smooth deportment, made the first beginnings of tyranny less discernible and unacceptable; he, by the fury of his behaviour, heightened the severity of his Ministry, which was liker the cruelty of an Inquisition than the legality of Justice. With all this, he was a Presbyterian, and retained his aversion to King *Charles I.* and his party to his death [which

the [Usher of the] Black Rod knocked at the door, and the Serjeant gave notice of it to the Speaker, who forbade Sir Robert proceeding any farther*.

[The King, in a short Speech, informed them of "his intentions to make a short recess, that all good men might recollect themselves;" and added, "and consider whether the present posture of affairs would not rather require their application to matters of Religion, and support against our only competitors at sea, than to things of less importance."]

The Parliament was then prorogued by his Majesty to

Wednesday, January 7, 1673-4.

When the Houses met, and the King, in his Speech, informed them, "That when he parted with them last, it was but for a little time, and with a resolution of meeting suddenly again: That that alone was enough to satisfy his Friends, that they need

[which happened in 1682.] *Burnet*. Many years after his death there was published a translation by him of *Virgil's Æneid*, which had been shewn in MS. to *Dryden*, and from which he has borrowed many lines.

*The Address (agreed to the day before) was to have been presented this afternoon; but the King disappointed all by coming unexpectedly to the House of Lords, and ordering the Commons to attend him. It happened that the Speaker and the Usher both met at the door of the House of Commons, and the Speaker being got within the House, some of the Members suddenly shut the door, and cried out, "To the Chair! To the Chair!" while others cried, "The Black Rod is at the door." The Speaker was immediately hurried to the Chair, and then it was moved, 1. That our Alliance with *France* was a Grievance. 2. That the evil Counsellors about the King were a Grievance. And 3. That the Duke of *Lauderdale* was a Grievance, and not fit to be trusted or employed in any office or place of trust. Upon which there was a general cry, "To the Question! To

the Question!" But the Black Rod knocking earnestly at the door, the Speaker leaped out of the Chair, and the House rose in great confusion. *Echard*.

What a dreadful picture have we here of the disorders of these times! Though there was sufficient cause for a close enquiry into the state of the nation, and a firm opposition to the favourite views of the Court; and though the alliance with *France*, and the ruin of *Holland*, were equally inconsistent with the interest and safety of *England*; yet surely such violence and fury, without any previous remonstrances or endeavours to bring the Court to reason, more resembled the turbulence of a faction, than the regularity and decorum of a Senate. *Ralph*.

Next day a Sermon was to have been preached before them by Dr. *Stillingfleet*. And *Oldmixon* asserts, "That some time this Session, a wooden shoe, such as the peasants wear in *France*, with the arms of *England* drawn at one end of it, and those of *France* at the other, with these words in the interval, *Utrum borum maris accipe*, was laid in the House, near the Speaker's Chair."

not

not fear, and his Enemies, that they could not hope for a breach between them. That he then told them, that the time of this short recess should be employed in doing such things as might add to their satisfaction: That he hoped he had done his part towards it; and if there were any thing else which they thought wanting, to secure Religion or Property, there was nothing which they should reasonably propose, but he would be ready to receive it. That he now expected they should do their parts too; for their enemies made vigorous preparations for war; and yet their chief hopes were to disunite them at home.

“That it was not possible for him to doubt their Affections at any time, much less at such a time as this, when the evidences of their Affections were become so necessary to them all. He desired them to consider, that, as the War could not be well made without a Supply, so neither could a good Peace be had without being in a posture of war. That he was very far from being in love with war, for war’s sake; but if he saw any likelihood of peace, without dishonour to himself, and damage to them, he would soon embrace it: But that no proposals of peace had yet been offered, which could be imagined with intent to conclude, but only to amuse. That therefore the way to a good peace was, to set out a good fleet, which they had time enough to do very effectually, if the Supply was not delayed. That if, after this, a peace should follow, yet the Supply would be well given; for, whatever remained of it, he was willing should be appropriated for building more ships.

“He reminded them again of “his debt to the Goldsmiths;” and concluded with showing them the entire confidence he had in them. That, as he believed his Alliance with *France* had been strangely misrepresented to them, he would make no difficulty of letting the Treaties, without reserve, be seen by a small Committee of both Houses, who might report to them the true scope of them. He assured them, there was no other Treaty with *France*, either before or since, not already printed, which should not be made known; and having thus freely trusted them, he did not doubt but they would have a care of his Honour, and the good of the Kingdom.”

The rest he referred to the Lord Keeper *, who, in a long and laboured harangue, endeavoured to blacken the *Dutch*, by setting forth “the intractability of their Ministers at *Cologne*,” and calling their letter to his Majesty, by their Trumpeter,

* The Great Seal had been taken from the Earl of *Shaftebury*, and given to Sir *Heneage Finch*, the Attorney General; and thus the Duke

of *York* was revenged on that Lord, for it was at his instance, we are told, that he was removed.

"a Paper Stratagem." And he scrupled not to advance, "That if they should yet send any new Propofal, we might juſtly ſuſpect that their end would be, if they could not divide, at leaſt to amuſe us, and leſſen our care in providing for the war."

[Debate.]

Sir *Thomas Meres*.] Moves to have time to conſider the King's Speech till *Monday*, this Speech being of great concernment.

A Bill was read as uſual at the opening a Seſſion—It was for repair of a Church*, &c.

It was moved "that none ſhould have Voices in Elections, that were either Papiſts, or not conformable to the Church of *England*," and a Bill [was propoſed] for that purpoſe, by Mr *Milward* †.

Sir *William Coventry* answered.] That was the way to make Elections of Parliament-men in the Houſes of Convocation, who declare what is the doctrine of the Church of *England*, and what is conformable—Beſides, by that courſe, you give the Catholics a negative Voice upon Elections; Catholics would be for a man they would have rejected.

Adjourned to

Monday, January 12.

Mr *Sacheverell*.] Complains of preſſing for ſoldiers Men of Quality, againſt *Magna Charta*, and perſons put to death againſt Law—Articles of war were complained of in the laſt Seſſion, to ſet up Martial Law—You have made particular Laws about burning of houſes, and yet by thoſe Articles they may burn houſes and ſtacks of corn, and death to any ſoldier that ſhall diſobey—Soldiers ſent beyond ſea, which ſhould ſtay here, for our ſafety—Therefore it is to no end to proceed to particular buſineſs till theſe things are remedied—He has told you his thoughts, and hopes that other Gentlemen will do the like.

Mr Secretary *Coventry*.] It will not be found out that men have been ſent out of *England* againſt their wills—

* In the Journal it is "to prevent vexations by ſuits at law."

† No mention of this in the Journal.

In Queen *Elizabeth's* time, she succoured *France*, and sent men into *Ireland*, and no Act of Parliament for doing it then—Never heard of any complaint of injuries done by the soldiers, but it was remedied; but the complaint should be, that such things have been done “by Authority”—Avers that no such things have been done by the King's Authority—The Articles were the same as in Lord *Essex's* army, and Lord *Strafford's*, the best of them extracted, and only to be executed when the army is beyond sea—When you find a fault, then lay it there—Let not the disorders of particular men be thought general—The King has told you what he is willing to do, and pray proceed to the King's Speech.

Mr *Sacheverell*.] The Articles were published by the King's Authority.

Mr Secretary *Coventry*.] The King's name may be used, but you will find them by Prince *Rupert's* Authority—They determine with his Commission.

Sir *John Monson*.] As to the pressing of men in Queen *Elizabeth's*, and *Edward VIth's* time, the 16th of *Charles I.* declared it illegal, and an Act was then particular for the pressing of men for *Ireland*—It is said, we have had redress, when complained of, but he cannot but reflect, with what applause the Triple League was entertained, (that was too great a happiness to enjoy) but what we have had since, let every man judge—Dates the design from the great persons going into *France*, and the consequence, shutting up the Exchequer, and the Declaration, which struck at all our Laws, temporal and ecclesiastical, and all to countenance Popery—The Parliament then was by the same hand prorogued, that we might not consider other things—The forces sent out of *Ireland*, little to be spared there; the joy of the Papists; but an army was the foundation of their joy, which they flocked to, and had commands in—We have had invasion of Property, and till Grievances are redressed, we cannot proceed any farther—Hopes we shall have time to give those persons thanks who had a hand in the Prorogation,
Decla-

Declaration, &c. and hopes we shall be rid of Popery, and Popish Counsellors.

Mr Secretary *Coventry*.] Does say he did not exempt Grievances, when he moved for the consideration of the King's Speech.

Mr *Russel*.] You have had so exact an account, that he has little farther to say of our deplorable condition—With an ill Prince we must pray and suffer, but when God has blessed us with so good a King, and yet Property, Religion, and all invaded, we ought to find out the authors of our misfortunes, the ill Ministers about the King, that prorogued the Parliament; stopp'd the proceedings of the Courts of Justice; broke Articles, in that attack of the *Smyrna* fleet; shut up the Exchequer; have Pensions from *France*, and accuse us of being Pensioners to *Holland*—Desires not their ruin, but the security of our lives and fortunes for the future.

Mr *Mallet* read a long Speech.

Sir *Charles Harbord* takes him down to Order.] The precedent of reading a Speech is dangerous—The Attorney, now Lord Keeper, reprehended him once only for making use of heads in a paper—Pray never let Speeches be read in Parliament.

Sir *Thomas Lee*.] *Mallet* was irregularly interrupted—If his memory be not so good as others, he may be indulged to make use of his paper, and would have people write what they intend to speak.

Mr *Garroway*.] It may be Mr *Mallet* cannot contract his notions as other men can do, and he would have him read his Speech—You may but wink and it is the same thing.

Sir *Robert Howard*.] Reading all and reading some is the same thing, and he believes he has almost done, as he observes, by the paper in his hand.

Sir *William Lewis*.] The best reason he has yet heard for his going on, is, "that he has almost done"—It may be without doors ill reported, not to let him make an end; though he is not for reading of entire Speeches, yet short notes are always commendable—He may go

on for this time, but hopes you will not admit it for the future.

Colonel *Birch*.] Is glad to see how merrily we begin, and hopes we shall continue so—It is the great part of an Orator to persuade, but hopes, as Paper Speeches may be laid aside here, they may also be in other places (the pulpits)—Whoever divides Religion into any other rivulets than Papist and Protestant, ruins all—He has manifested his loyalty at *Worcester*—He has constantly attended the Confession and Absolution, and the Communion, and hopes to be heard without prejudice—We have leave to debate our own security by the King's and the Lord Keeper's Speech, and therefore will open our present condition—Doubts not but the King will at last find, that they who advise him to follow the Parliament's Counsel are his best subjects—The Grievances, as to law [have been] opened very well, and the remedy, in some part; but thinks all in vain, if, by any means, we are incited to carry on this league with *France*, and war with *Holland*; and because of the second article of the treaty with *France*, “the setting up the Catholic Religion in every conquered town in *Holland*,” if we must go on in that union, leaves it to every man's conscience in the consequence—Would not do by day, what he shall be ashamed of at night, that his conscience shall give him the lie—How we entered into this war he remembers—The Triple Alliance we thanked the King heartily for; how we came out of it, the Instructions will give you an account—The greatest Princes have called Parliaments to advise in peace and war; but he is still doubting that this Parliament was prorogued by strong persuasion—What is under the Great Seal is a man's freehold (he speaks not of his own concern, says nothing of himself) but [it has been] taken away from several persons—We have not had a smile, since the *French* alliance began, and the second article of that alliance is to set up the Pope; and now we are invited to carry on that war, he cannot consent to it—The consequence would have been, if the *French* King had continued in his

his greaueſs by conqueſts, we had not been doing here what we do now—Either *France* or *Holland* muſt be bigger : If *France*, we may purchaſe what we fear ; if *Holland*, they may be too big to grant—Would be far from doing any thing derogatory to the King ; but when the League is not honourable nor ſafe for the King, he cannot find arguments to part with our Money for the ſupport of it—The diſcourſe is now almoſt at every plough-tail—Says this only in bar, that when we have ſearched out who brought this League about, he is ready to ſecure our fears as to Religion, before we ſpeak of any thing elſe.

Mr Secretary *Coventry*.] Would know what it is he ſhould ſpeak to ; ſeveral things relating to the War—Then he pauſed—was bid go on. As to the buſineſs of the War, he was ordered to tell *Sweden*, where he was Ambaſſador, “ that if the King of *France* invaded any of the *Spaniſh* dominions, our King would defend the Triple League : ” The propoſition was, “ in every town the *French* ſhould have rendered to them, they ſhould have a Papiſt Church as we would have a Proteſtant.” Every man muſt answer in his turn for his actions, as he muſt do for his ; but would not give an opinion to continue a war againſt the genius of the nation—But you have no peace, nor likelihood of any, but what muſt come from the conduct of this Houſe, which a good Vote will certainly do, he believes—But *Spain* not only aſſiſts, but makes a League with *Holland*, without your knowledge ; it was ſtrange—*Holland*’s new proffers are to give us ſome money, and to return prizes on both ſides, which is impracticable—The King demands reparation for his ſubjects loſſes in *Surinam*, and that the *Hollanders* ſhould not fiſh without leave, and regulating commerce ; the King gives theſe back to the *Spaniſh* Ambaſſador—Inſtead of this, they ſend him a letter in answer to the King’s laſt Reply, wherein they curtail the thing—*Spain* ſays, words not ambiguous ; *Holland*, words to give content, but no money—Knows not what they will make of the ſlag. The *Spaniſh* Ambaſſador, three weeks after, con-

tradicted all, and said he had a letter to recall the Articles, but did not deliver the letter; soon after he sent it, which was indorsed triplicate, three being written, it seems, for fear of miscarriage; but imagining some great advantages over the Duke of *Luxembourg*, or hopes of a breach betwixt the King and his Parliament, they insist thus—Would have you secure the kingdom, and if they know the time elapsed and no spring fleet (which they will know) and take their advantage, it is not *England* they covet, but the Plantations, to ruin your traffic and trade; by what they have done, we may conclude, that if we were down, all the world cannot set us up again—In the *Streights* they have twenty sail of men of war; should they send twenty more, what a condition are we in! They that are upon the Plantations are poor; we have the profit of them; if they were in the *Hollanders* hands, and they may have free trade, by the *Hollanders* temptations, and we low, we are in danger—Tell the King your Grievances, but so supply him that the navy may go on, which, you know, needs it; and if you put the King into these straits and desperation, what will be the consequence? Now for the Declaration against the *French* Treaty; being so deserted, *Holland* will have no need of you. Can any man have the impudence to say, that because you have a treaty with *France*, you are obliged to fight to the last man? Secure things in the treaty how you please, that the money may not be attached, and that it may be for shipping (which, under favour, the navy must have)—Moves that you will propose Grievances, and in the mean time that the kingdom may be secured.

Mr *Garroway*.] Secretary *Coventry* desires “that you would not press the King”—Wonders at it—When we were prorogued two months, those that advised it “pressed the King,” and we must postpone all considerations, without consideration of Religion, Property, or Trade—Nothing, but we must carry on a war we know not how long; let those good Counsellors that advised it look after it—Did our Ambassadors give *Holland* no security

curity by the Triple League and *Breda*, that we would not fall on them? We are told, "that our war will ruin our Plantations;" since *March* last we have laid out three hundred thousand pounds in freight to strangers; our corn vessels, passing from port to port, taken; some of our great ships swept away by the *Dutch*; our men pressed for sea and land—The Gentleman said, the last Session "he would warrant a peace with a Vote for money," but now he says otherwise—*Londoners* are at a tax upon the collier, and in the country we pay five and six pounds per chaldron—The Ploughman finds his wants; it is three hundred thousand pounds tax to *London* by proportion, and this is one of the benefits you have by the war, and the effects are upon the counties about *London*, decay of manufacture! War is a subtle thing; lose a correspondence in trade, and you know not how to get it again—The making bays, a great trade, you have lost by this war—If *France* can supply *Spain* with commodities, as they left you in the war so they will do in trade—We employ all foreigners for shipping, and if the war continues, your Act of Navigation will be of no use—Pressing of seamen! By the last fatal war you saw that the courage of your nation, when deserted by the *French*, brought you off; the *French* may serve you so by land—A war at sea will never make an end of the war—Grass grew in *Middleburgh* streets, now grown rich by depredations this war—Is one of those that are for peace, and hopes it is no crime to offer things with modesty—Would not depend upon the *Spanish* Ambassador, but upon a war upon the *English* interest, and never saw want of money or help—Cleanse the house at home; know those that have intrigued you; he would not sweep away Gentlemen by general Votes; would reach them according to Law, and go upon things—The Keeper says in his speech, "the fleet is in good readiness;" money remains not paid in of the last tax, prizes, and the advance upon the excise farm; therefore would have full enquiry into the state of the kingdom, but not like em-

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piries,

pirics, to give a catholicon for all diseases ; but let Gentlemen propose the State of Affairs, and go upon that.

Sir *Thomas Clarges*.] If we had gone on, the last Prorogation, things might not have been at this pass ; but as those evil Counsellors about the King persuaded him then, they do still exasperate him, that our best Counsels will be perverted ; this is the great Grievance—If it be apparent that any sort of men do design the ruin of the kingdom, so as to prostitute the King's word ; and if any new treason be enacted, would have that made one—It is of consequence never to be recovered—No example that ever any war of this nature began without Parliament. Instances *Edward I*, *Edward III*, and *Henry V*, the miracle of men, that (unless our King) never any of more honour and gallantry since *Julius Cæsar's* time. *Henry VIII*. as ambitious, perhaps, as any, young, and though his coffers were full, advised, in the third year of his reign, with his Parliament, about making of war—The best thing to rivet the King and his people, is mutual confidence. 43 *Edward III*, when he was to make peace with *Scotland* with *David Bruce*, he advised with his Parliament—*Richard II*. would not make peace without subjecting his articles to the Parliament—Hopes, if so now, we shall do it for the King's honour—We may date a great deal of our misfortunes from the Million Act—Submits to all Gentlemen's opinions here, the universal hatred against this *French* alliance—We were so jealous formerly of our ports, that no foreigners scarce with a packet-boat were suffered to enter them without leave, but now whole shoals of them—But it occurs to him, that the alliance with *France* is broken ; all alliances are understood as to circumstances of things when made ; it is strange that we should consent to the “ Popish Article”—The Declaration of war by the *French* against the Duke of *Brandenbourg*, was for extirpation of Heresy ; fears it interpreted a war upon ourselves—When we were ready with our fleet, the King of *France* goes to conquer *Maestricht*, pretends it would be presently taken, and then would fall down in order to our landing ; instead of that, he flies in-

to *Germany*, and never favours our landing ; and does he think we are in league with him against all the world? Moves to adjourn the House till to-morrow, that we may enumerate our Grievances before we enter upon the Debate of Supply—Would have the Test Law against Popery revived, and some things added to it, and all to take it that are in the King's Counsels, and something for security of the King's person ; and [would have] Religion, after the King's death, secured, and the Statute of Suggestions, for men to undergo a penalty if they make not accusations out ; but the first thing to enter upon, would have “ the Counsellors ;” we have always gracious Answers from the King, but they are still intercepted : Proclamation against Papists, and yet Priests are walking in *Whitehall* in defiance of it ; Popish commanders at the head of companies ; no Minister sent with our companies into *France* to comfort the sick, and to do other spiritual offices, but exposed to Popery—One man has had seven pardons for treason and murder ; shall we not put such out of the reach of pardon ? The general pardon would not suffice, but special ones must be obtained since that pardon—Would go first upon “ evil Counsellors.”

Lord *Cavendish*.] When we consider the Prorogation, and the other misfortunes of the nation, fears we shall have the same advice as long as such “ Counsellors” are about the King—Moves in the first place that we proceed to secure the nation by removing them.

Sir *John Monson*.] When “ Counsellors” have pardons in their pockets, from murder to petty larceny, what security can the kingdom have ? Therefore agrees with the Motions made before, &c.

Sir *Charles Wheeler*.] Should be glad that the King might have some prospect, through this vote, that, when our Grievances are redressed, we may take his Supply into consideration—We carry on all things for the interest of the nation, and assist him upon the public interest of the nation, and no farther.

Sir

Sir *Robert Howard*.] Was sorry for the Prorogation when it was, but as the King has now invited and trusted you, make him not jealous of us—The eyes of all the World are upon us now, and should we not do things as amicably as possible, the censures of the people will lie as heavy upon us, as in any other thing—Winds up all in this Motion, “To order an Address to the King to give him thanks for his trust and invitation, and to tell him there remains something as to our “security”—No doubt we want many things, but shall we slip by the King in his invitations? Knows it not in your hearts, and if “evil Counsellors” be one thing, and all other things [are considered] one by one, then you are in a method.

Sir *Thomas Lee*.] The expression of *Howard's*, of “passing by the King,” is harsh; the war so long debated is not a “passing by the King.”

Mr *Jones*.] Would always be tender in reflective expressions; he has neither preparation, nor intention, to offer Grievances, but from the greatness of the Debate, and the place he serves for, (*London*) something is expected he should say about their Grievances—He has sufficiently expressed his loyalty in the worst times, but being not a man of trade, knows no more than those that walk the streets speak of—The imposition upon Coals is hard upon the rich, but destructive to the poor; thousands had died for the want of them, but for the favourableness of the weather—He has known *London* these forty-five years, and never knew that impudence in Meetings that the Papists have now; they are so in most parts about; a great aggravation of their insolence and increase, that they attempt meeting where it never was—Protections from the Lords House, and this, ruin trade, together with shutting up the Exchequer; how can we be secure, that the Exchequer be not stopped to-morrow again? If ruin were at the door, and the nation ready to sink, who will send one hundred pounds thither? Still the Goldsmiths are postponed; was it their personal concern, would not regard it, but thousands are concerned in it—This is of more consequence than the rebuilding of the City,

City, proportioning the Rates of the City to the Country, in Taxes.

Sir Thomas Clarges, took him down to Order.] You have a Question stated; to your part, Mr Speaker, and keep us to debate.

Mr Garroway.] Would have the Question written down, that it may be stated.

Mr Montague.] Moves that we may address the King, "that we may sit till our Grievances shall be redressed;" and doubts not but it will be to the terror of the *Dutch*—*It took not.*

[The Question being propounded, that the Thanks of the House be returned to his Majesty, for his gracious Speech; and the Question being put, That the House do now proceed in the Debate of that Question, it passed in the affirmative, 191 to 139.]

Sir Thomas Meres.] 'Tis not a real prejudice, so much as a sudden mischief, the concurrence of Papists about this town, and he would have added to the Vote, "That the Lieutenancy in *London* and *Westminster*, and in the country, may be ready to secure the nation from Popish and other tumultuous designs against the King and Government."

Mr Secretary Coventry.] Is not averse to any Security of the King's Person and the Nation, and agrees to it.

Sir Charles Harbord.] "That the *Irish* also, being a needy and numerous people, may be sent away."

Mr Secretary Coventry.] To the word, "fully," in the Vote; a thing is said to be "full" when you cannot put in a drop more—Would know if that be your Meaning.

Mr Garroway.] By the Law of *England*, Priests and Jesuits cannot be about the Court—The thing is not fully redressed by the Proclamation.

Resolved, That this House will proceed, in the first place, to have Grievances effectually redressed, the Protestant Religion, Liberties, and Properties, effectually secured, to suppress Popery, and to remove persons, and Counsellors, popishly affected; or otherwise obnoxious, or dangerous, to the Government.

Resolved,

Resolved, That the humble and hearty Thanks of this House be returned to his Majesty for his gracious Promises and Assurances in his [last] Speech, and for those Acts which he has done [since the last Prorogation] towards [the suppressing and] discountenancing of Popery; and that he would please to [give] order [for] the Militia of *London, Westminster, [and Middlesex]* to be ready at an hour's warning, [and the other Militia of the Kingdom at a day's warning,] for the suppressing any tumultuous meeting of Papists, or other malecontent persons whatsoever; and that the House will go with this Address to his Majesty in a body.

Tuesday, January 13.

Mr *Stockdale* reads the *Vote*.] Many Grievances have been represented; the way is now, how you will redress your Grievances? The last Session [produced] many good Votes as to that, but we were prorogued; and to the intent that that may not happen again, consider that the same Counsellors are interposing, and interpreting our intentions may procure the same Prorogation; therefore moves to begin with the last part of the Vote first ["evil Counsellors."] You cannot have "Grievances effectually redressed," without "removing" those that have advised these things, and, when that is done, he perhaps will name one.

Sir *Robert Thomas*.] We have a great many Grievances; hazard of Religion, Counsellors advising the King to take away Religion and Properties: Must name one; (by the bye, the Black Rod [being] called in by you, Mr Speaker, the last Session, before he knocked *, he could not do it then) a person that has contributed as much to our misfortunes as any man; the Duke of *Lauderdale*—You will have proofs of his advice by four of your Members; viz. "† Your Majesty is bound in honour to justify your Edicts—I wonder at the confidence of any person to deny your Majesty's Edicts, and those persons that do, I think, deserve to be most severely punished ‡."

* See p. 223.

† The expressions mentioned in the Journal are, "Your Majesty's Edicts ought to be obeyed; for

your Majesty's Edicts are equal with the Laws, and ought to be observed in the first place."

‡ A Gentleman, then present, informed

The Act of the Militia in *Scotland*—"which forces are to be in a readines to be called to march into *England* or *Ireland*, upon any service where the honour, authority, or greatness of the King shall be concerned." Other Gentlemen know more—He has great forces in readines and pay, and for no other end, he believes, than to awe us.

Sir *Nicholas Carew*.] We should never have "Grievances," but by such "Counsellors"—The Duke is at the head of a great army in *Scotland*; desires that we may move the King, that he may keep there, and return no more into *England*.

Sir *Thomas Littleton*.] The words are ready, and desires you will order the Gentlemen that heard them, to declare them.

Sir *Robert Thomas*.] Names Sir *Scroope Howe**, Mr *Man*, and Mr *Robert Pierpoint*†, who heard the words, and Lord *St. John*.

Lord *St. John*.] The last Session, *February*, he was called to do it, but then refused, because there was a dispute then betwixt the Duke of *Lauderdale* and himself; Mr *Howe*, then sick, being concerned for Mr *Whalley*, desired him to go hear the business at the Council, where Mr *Whalley* (a Justice of Peace in *Nottinghamshire*) was summoned, who had committed a Preacher, contrary to the Declaration. *Whalley* was to answer the contempt, the Parson had no licence to preach, but entry was made of it in the Secretary's Book; a Law bound *Whalley*, and a Declaration did not bind him. *Lauderdale* then spoke the words mentioned by Sir *Robert Thomas*; that he wondered at the words, and said, "*Lauderdale* may

informed me, that the King should say to Mr *Penyson Whalley* (the person then before the Council) "I wonder that you should withstand my Declaration. I would have you know, that I will be obeyed, according to my interpretation of the Law, and not your's; and if you will not, I shall put in those that will." The *Compiler*.

* Created Lord Viscount *Howe* in 1701. In 1688 the Earl of *Devonshire* concerted with him the means for inviting the Prince of *Orange* into *England*. *Kennet's Memoirs of the Family of Cavendish*. He died in 1711, and was grandfather to the present Lord *Howe*.

† Nephew to the Marquess of *Dorchester*.

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be questioned in Parliament." Some Members being present, *Lauderdale* spoke as before, none else of the Council spoke, and all were bid to withdraw.

Sir *Scroope Howe* averred the words as before; Mr *Pierpoint*, and Mr *Man* likewise.

Sir *Thomas Littleton*.] Now you are possessed of this, he shall offer his sense—The last Session, we were cut off in the beginning—In *Scotland*, an army is raised by this great Duke; though by Act of Parliament, yet his power is great, and the army under his power—It is in vain to act here, without converting our thoughts to *Scotland*. Pray God! this be not elsewhere—A man, so principled and arbitrary!—You had need look about you; needs say nothing to aggravate, the bare thing aggravates itself—A cloud hangs over us, and 'tis high time it was scattered; it has made Counsellors in *England* so much the bolder—Moves "To address the King to exclude the Duke of *Lauderdale* from his Counsels in *England*"—Keep him from Counsels here, and you may shake his authority in *Scotland*; he is in all respects a Commoner*, and so we cannot clash with the Lords in point of trial—There are twenty thousand foot, and two thousand horse, ready in *Scotland*, and no colour for it—A man of such principles is not fit to be trusted with such an army, nor [with] our Counsels, and, without any more ceremony, would address the King, as he is a Commoner.

Sir *Charles Harbord*.] He has a double charge against him, that of the army in *Scotland*, and his words at the Council here. You may miss of trial, but an Act may reach him.

Mr *Dalmahoy*.] Has heard the Duke of *Lauderdale* deny the words—He was not in *Scotland* when the Act about the Militia was made—He knows not who was then Commissioner.

* The Duke was at this time only a Peer of *Scotland*. But in June following he was created an English Peer, by the title of Earl of *Guliford*.

Mr *Powle*] Supposes that every man is sensible of a pernicious design to alter the Government, and these Counsellors have brought us to the brink of destruction—We have a gracious Prince, but the great design was, first to abuse the King, and then to oppress the people, fearing his good disposition to us—The Triple League was made to check a great Prince—To ruin the Protestant religion was the design, and, without Money, that was not to be carried on; which Money was given for the maintaining the Triple Alliance; and then more Money was got, by stopping the Exchequer, to the undoing of many hundreds of persons—Then a Declaration for the ease of tender consciences, and, under pretence of Toleration, suspending by it all Ecclesiastical Laws, and, in consequence, laying all Laws aside—Upon the declaration of war against *Holland*, armies were raised, and Popish officers at the head of them, and in places of civil authorities, honours, and dignities; then Popish officers are sent over into *Ireland*, Papists put into trust and office there; then in *Scotland*, an army is raised to march into *England*, &c. or for any other cause wherein “the King’s honour or greatness may be concerned;” but the greatness of the King consists in governing a free people—The Parliament supplied and brought him from banishment, and, because the King would hearken to their advice, they must be prorogued, the juncture of their time not being fit for the fleet against *Holland*; they suppose we would give, and, if not, the necessity must justify raising of money—What benefit had we but fruitless battles at sea, and engaging us, by the *French*, with his Allies? The King was persuaded that the Parliament would not assist his interest, but doubts not but time will demonstrate the contrary—When we would have reached these men, we were prorogued, and now [there is] a necessity of giving money—The King’s credit lost, the people poor, jealousies great, and all might have been remedied by our meeting—*Lauderdale* asserted “Edicts superior to Law,” and [it was] spoken in the presence of the King and Council; no greater argument, though
some

some, he doubts not, have done it privately, but he publickly—*Hamilton's* book asserts the King's authority of raising Money without Parliament, and it was countenanced by *Lauderdale* in 1667—When Lord *Rothes* was Commissioner, then was the foundation of this army, but it came not to maturity till 1669, when *Lauderdale* was Commissioner; [it was] then kept on foot, and boasted of—It is not unknown at what vast greatness this person has lived, thereby bringing the King into necessity, and disobliging the House, that we should not supply—*Lauderdale* sued out the King's pardon; a new trick our great men have gotten, fearing our enquiry, and would arm themselves against us with the King's pardon; let this be considered and weighed well—Less crimes than these have brought men to the scaffold, but the temper of this House is not desirous of blood. The 5th of *Richard II.* [Counsellors] were removed without cause; the people only spoke ill of them. 11 *Richard II.* the Duke of *Ireland*, and Sir *John Crosby* [were] impeached; the people spoke ill of them. 20 *Henry VI.* the Lord *Dudley*, for the same cause—It may be the case of Peers of *England*, and this upon no other article but merely the people speaking ill of them. 3 *Charles I.* remonstrance against the Duke of *Bucks*, Bishop *Neale*, and Archbishop *Laud*, to be removed, as evil Counsellors—Moves, “That this great person, the Duke of *Lauderdale*, may for ever be removed from the King's presence.”

Mr Secretary *Coventry*.] To condemn a man, without hearing, he never knew the precedent before in this House.

Mr *Stockdale*.] If for taking away blood, witnesses must be sworn; but to remove this man you have testimony sufficient to ground an Address to the King; so notorious a man!

Sir *Robert Carr*.] A person was accused, and you gave a day—Moves to consider of it.

Colonel *Birch*.] It is true, there was a person had a day, but he had no pardon, and he would have *Lauderdale* sent where “Edicts” are in fashion.

Sir *John Duncombe*.] 'Tis hard to condemn a man without being

being heard; "removed from the King's presence" is as hard a judgment as a man can have—Thinks it worthy consideration to give him a day.

Sir *John Trevor*.] If you proceed merely to suspend him from the King's "Counsels," you may do it, but if from the King's "presence," where no manner of proof is taken, you ought to give him a day—By way of confiscation, or attainder, you give time, but as to "removal from Counsels," you need give none.

Mr *Howe*.] He was the most active person to bring the late King to his murder—He was Solicitor from *Scotland* to bring the late King to the block, and to destroy this King by giving ill advice to him.

Mr *Garroway*.] Has often heard that this man brought the Declaration from *Scotland* to bring the late King to the block, and those people had a horror for the fact—Would have him come and answer it here, and all that are concerned with him—He has heard of one *Murray*, kept in the *Tower*, by the instigation of *Lauderdale*, for complaining against him; these are violences, when no Writs of *Habeas Corpus* can be had; and would send to the Gatehouse, where he now stands committed, for the *Mittimus*—You will find it of his own making, and illegal—Agrees to the Address "for removing him;" and would have a Bill to make it Treason if ever he return hither again.

Mr Secretary *Coventry*.] If he be guilty of this horrid crime alleged, will not defend him; neither will he condemn him without proof.

Sir *John Birkenhead*.] The Duke of *Ireland*, *Oxford*, and *Somerfet*, had a day assigned them—No man has been banished the King's Presence on this formality, though you cannot have greater evidence; it may be he may confess it—Many things are Law in *Scotland*, and not so here; would not have a precedent to reach every body—Assign him a day, and you will tread more safely, and do him right, and no man wrong.

Mr *Wilde*.] Would have a Bill to follow the Address.

Sir *Thomas Littleton*.] Has heard a great man in the

Rump, and a Counsellor then, say, "That *Lauderdale* did sollicit that bloody Kirk-Declaration against the King;" does not name the person, because desired not do it—Would have him "removed from the King's Person and Counsels for ever." This thing is not so hard; he at a great distance, and great affairs in *Scotland* to attend, and so he [may] excuse himself from coming, and perhaps when come we [may] not [be] fitting, and if he will come, at any time, he may be tried by Parliament.

Colonel *Sandys*.] Since he has heard that he [*Lauderdale*] had some part in the King's murder, that has raised him; and would have him as [much] sequestered from the world, as from the King, and would have "a Bill of Attainder against him."

Mr *Sacheverell*.] Fears that this Lord has not lost his old evil principles, but improved them; the *Scotch* Act of Militia plainly shows it—It puts the King in power plainly to alter any thing in Church or State, and so, by this army, Popery may be set up—Not content to keep their law in *Scotland*, but printed here by Authority—It was done this time twelvemonth, when the Question was, whether all your laws must be set aside; and therefore is for "secluding him for ever from the King's presence," and "an Act of banishment."

Colonel *Strangways*.] Would have the words "obnoxious and dangerous" retained in the Vote—Our Saviour pardoned them that persecuted him, but where a man, by after-actions, has done ill, his righteousness shall be forgotten, when transgressing *de novo*—He abhors the crime; but consider your case; "sequestering him from the King's presence and the kingdom"—Common fame from this House is a greater ground for accusation than thought to be.

Sir *Richard Temple*.] Does not remember that, by any of the precedents, men were sent for, and time given them to answer; this vote is with that moderation, "to remove" only—Would add something, that it may have more strength, *viz.* "as a man found by this House to be

be dangerous." Has heard of his being no less arbitrary in *Scotland* than here; to have made himself a perpetual Commissioner there.

Sir *John Monson*.] Hears it said, "that every subject has right to come into the King's presence;" therefore to prevent that, when we are up, would have "a Bill," as well as "an Address" now.

Sir *Eliab Harvey*.] Would have a Bill ordered "to make it treason for him to return to *England*."

Mr *Waller*.] Thinks as bad of this case as any man here—If so much had been against Lord *Strafford*, would not have then been against his Impeachment.

Mr *Garroway*.] He may return, and plead what he will here, and doubts not but there is matter sufficient against him.

Sir *Charles Harbord*.] Seconds the motion, "that he may be heard if he will."

Lord *Obrien*.] Has a Petition to present, about the Duke of *Lauderdale's* ravishing Writings from him concerning his Lady's estate.

Sir *William Coventry*.] The Bill against the Duke of *Lauderdale*, as proposed, is contradictory to what you have spoken of "removing him from the King's presence." The King may remove him, by his own power, "from his presence," at the request of any private man, and when it is done, it is well done—Every subject has a right of petitioning the King, though he be not of his Bed-chamber or Council; but it is not so easy a thing to exclude any man out "of the kingdom." To make a precedent to exclude a man "the kingdom," without hearing him, cannot agree to it.

Mr *Boscarwen*.] Desires that Lord *Clarendon's* Bill of banishment may not be a precedent—That was done somewhat hastily.

Sir *Thomas Clarges*.] Would have a Bill "to forbid him coming within twelve miles of the Court, wherever the King shall be"—Will consent to that, and no farther.

Sir *Robert Howard*.] Doubts, if you should proceed farther

farther than “ removing him from the King’s presence,” you will deprive him of what you would not, his freehold: By Bill, an ill precedent! Would lay aside this for the present, and hopes that the Parliament will proceed by arguments of justice.

Mr. *Powle*.] Would have a summons to appear, before you pass that Bill.

Sir *Thomas Lee*.] In the case of Lord *Clarendon* an Impeachment preceded; this upon other occasions, and the person absent—But “ not to come to the King’s presence” is in the King’s power to suffer or not; and if the King will not be advised by a person, he does him no wrong—Would have it matter of Petition, and no farther.

A Letter being brought in to the Speaker, signed “ *Buckingham*,” on his offering to read it,

Mr. *Stockdale* said,] He would not have the Letter now read, he having something to offer against the Duke of *Buckingham* *. Whatever that Letter contains, he has a charge against the person, of as high a nature as the Letter can be—Says, it is irregular for the Speaker to bring us a new business; the Letter—*He was interrupted by*

* The Duke of *Buckingham* was a man of a noble presence. He had a great liveliness of wit, and a peculiar faculty of turning all things into ridicule with bold figures and natural descriptions. He had no sort of literature; only he was drawn into Chemistry; and for some years he thought he was very near finding the Philosopher’s Stone. He had no principles of religion, virtue, or friendship; pleasure, frolic, or extravagant diversion, was all that he laid to heart. He was true to nothing, for he was not true to himself. He had no steadiness, nor conduct. He could never fix his thoughts, nor govern his estate, though then the greatest in England. He was bred about the King, and for many years he had a great ascendant over him; but he spoke of him to all persons with that con-

tempt, that at last he drew a lasting disgrace upon himself; and he at length ruined both body and mind, fortune and reputation, equally. The madness of vice appeared in his person in many instances; since at last he became contemptible and poor, sickly, and sunk in his parts, as well as in all other respects; so that his conversation was as much avoided as ever it had been courted. The main blame of the King’s ill principles, and bad morals, was owing to the Duke of *Buckingham*. *Burnet*.

Dryden’s character of him (under that of *Zimri*) in his *Abraham* and *Achitophel*, and *Pope*’s description of the last scene of his life, which was closed at an alehouse at *Helmley* in *Yorkshire*, in the year 1687, are well known and justly admired.

Sir

Sir Charles Wheeler.] To Order of proceedings, in reference to your Vote, after what manner! Would have some previous consideration, that one man may not prevent another.

Mr Stockdale.] Would have all men concerned, named; and you are possessed of one against whom he has a charge, the Duke of *Buckingham*; that, if encouraging or practising, and, he supposes, establishing Popery; if taking money from the subject, and breaking the Triple Alliance, and engaging us in this *French* Alliance [be a charge,] he has a charge against the Duke of *Buckingham*: The proofs are not so ready as the last, but the particulars will all be proved—Offers not an impeachment—Though the crimes may be proved, impeachments take up a long time; it may be longer than we have to sit—His own letters show corresponding with *Peter Talbot*, the pretended Archbishop. When *Ireland* was in great danger by Popery, he advised the army to be drawn out of that kingdom, and headed his own regiment with Popish officers. At *Knareborough*, *Whitsuntide* last (the Standing Army was then forming) this Duke came into *Yorkshire* to raise men; a poor man, being pressed, came to the Overseers of the Poor, and told them, “You must provide for my wife and children, I am pressed away and cannot maintain them.” The Duke sent for the Overseer, and beat him for not doing it, and sent a warrant to the Marshal of the West Riding of *Yorkshire*, to keep him, till farther order from him; the man applied to the Duke, and, after three days imprisonment, was delivered by the Marshal (*Wainman*) who demanded thirty pounds, fees, and got five pounds for three days: This was done, when there was a prospect of arbitrary Power; and this was the first action of Martial Law, committed by a Martial-man. The next is the Duke’s taking of money, two shillings and six-pence, upon every horse exported at *Dover*, by virtue of his place of Master of the Horse, against Law—Breaking of the Triple Alliance—The Duke was sent into *France*, and what Treaty he made there we know by the effect; the Triple Alliance broken

ken—Lord *Bellasis* was sent to *Dunkirk*, and the Duke, though he had no business, yet would go to see the King of *France*, and has heard what presents he had there, and believes it will be proved—His endeavours to take away the affections of the King's good subjects, by saying, "that the King was an arrant knave, and unfit to govern;" Doctor *Williams* can prove it—He has defrauded the King's servants of their wages, so disadvantageous to his service; this is public—Now there is a Petition against him in the House of Lords of a strange nature; killing the Earl of *Shrewsbury* *, and living scandalously with his widow. Not only that, but he has attempted a horrid sin not to be named; not to be named at *Rome*, where their other practices are horrid—Moves, "that a person so dangerous to the Government, and of so ill a life and conversation, may be removed from the King's presence and from all his employments;" and for "an Act of Banishment" against him, as against the Duke of *Lauderdale*.

Sir *John Coventry*.] This man has made it his business to sow dissension betwixt the King and this House, but he is not a man to put things in execution when much danger is in the case—When the King had his Ministers in *France*, the Duke of *Buckingham* put many of his servants, *incognito*, to treat with the Ministers of that state, Papists and persons ill affected to our Government—It is a sad condition we are in, to have a man so near the King's person that contemns his person—This Duke has given night and lanthorn counsels, not to be owned by the

* This was in a duel, *March 16, 1667*. "The Countess is said to have held the Duke's horse, disguised like a Page, during the combat; to reward his prowess in

which, she went to bed to him in the shirt stained with her husband's blood. The loves of this tender pair are recorded by *Pope*,

"Gallant and gay in *Cliefden's* proud Alcove,
"The Bower of wanton *Shrewsbury* and Love."

Catalogue of Royal and Noble Authors, Vol. ii. p. 82, 3.

Of this intrigue, *Marvell*, in one of his Letters, makes the following mention: "*Buckingham* runs out of all with Lady *Shrewsbury*; by whom

he believes he had a son, to whom the King stood godfather: It died young, Earl of *Coventry*."

rest

rest of the Counsellors. He corresponds with a traytor, *Peter Talbot*; the letter was burned in the King's bed-chamber, and part remains—Some say the Duke is not ashamed of that profession; it is known to you all, that these people have been protected by him: It may be said, that the officers of his regiment are Protestants, but we may thank the Commons of *England* for it—If these things be proved, he desires the Duke “may be removed from the King's person for ever.”

Mr *Howe*.] Besides all this, when the King was at *Windsor*, because he would not stay so long as the Duke would have him *, he took the bridle from the King's horse, to the great danger of the King's person, and the Duke was then *Master of his Horse*.

Sir *Winston Churchill*.] He that would answer this charge of the Duke's, may do himself more wrong than the Duke has. Wishes the particulars as easily proved as charged—The business of *Windsor* he knows—The Duke is not far from you, and supposes, if the letter be not of importance, the Duke has forfeited his understanding, as the charge makes him forfeit his reputation—Men of his quality will not inform you of trifles: The letter may be of concernment; it may discover something you know not (as that in the Lords House about a plot) therefore would read it.

Lord *Cavendish*.] Should the artifice of the man put it out of our power to proceed, it would be of ill consequence—Would have him “removed from Offices and Councils about the King” and “suspended his presence till farther proceeded against.”

Sir *Thomas Clarges*.] Would first put the Question for “the Address,” and then read the letter. No great need of particular proof; but all you desire, is, that he may not be near the King's person to pursue these dangerous Counsels—In *Scotland*, did he not correspond with *Argyle* and ransack the King's close-stool for papers? There were shrewd suspicions of him in the rebellion in the North, and soon after he got his pardon. Is it no crime to

* It was whispered “at a drinking-bout.”

kill the husband, and prostitute the wife? He accuses him not, for it may be pardoned; but for us to countenance such things, will bring God's judgments upon us—After so great an accusation, to come so familiarly amongst the Lords, his Judges, and to do his offices about the King, argues a strange boldness—There are seven persons that have had five Pardons since the Restoration of the King; two by Act of Parliament, and three under the Great Seal, for murder, treason, &c. so that you can never lay hold of him—Since *March* last he has got another Pardon, and, as the Docket says, “for all treasons, insurrections, murders, misprisions, manslaughters, &c. committed or done before the 14th of *November* last.” This is in some sort a confession of the guilt of so many crimes as are enumerated in the Pardon—You must give it, by Vote, for the safety of witnesses, and he to be “removed from the King's person.” Men are awed; and at the reading of the Petition against him, in the House of Lords, there was a great silence—He has not common bowels of mercy; he beat an old Gentleman for desiring [him] not to ride over his corn, till the blood ran down his hoary head. At *Barnet* he beat a poor soldier in bonds about the unfortunate killing Lady *Sbrewsbury's* coachman—Moves as before.

Sir *Edmund Jennings*.] The letter may be of consequence. The paper of discovery was read in the Lords House, and he would have the Duke's letter read.

The Duke's letter was read. It was as follows: “Mr Speaker, I desire you to do me the favour to get leave of the [Honourable] House of Commons, that I may inform them, in person, of some truths relating to the Public; by which you will much oblige, &c.

January 13, 1673.

BUCKINGHAM.”

Mr *Sacheverell*.] You ought to hear the Duke, because the matter, he pretends, is “public,” and you may be concerned.

Mr *Garroway*.] Hopes you will do justice to all men. If you pass your vote against him, of what validity will any thing be that he can say? Moves that [that] right may be

be done to the Duke, [which] you will not deny to the meanest Commoner—Lord Chief Justice *Keeling*, and the Earl of *Bristol*, had a chair set for them: You heard them speak, and *Bristol* cleared your Member, Sir *Richard Temple*—Would now hear the Duke.

Sir *Thomas Clarges*.] It would have been well if he had rendered himself the last Session, when occasion was given, as well as now. This man has done his impieties in the face of the Sun; prevented our meeting in *October* last. Has he not perverted the King's word? Would only now have him "removed from the King's Council"—My Lord of *Bristol*'s coming hither was a voluntary desire, and nothing against him here—Is not against his coming in, but would first "remove him from the King's person."

Colonel *Birch*.] Such things as the Duke has done, cannot be without company—Would have him come in, and hear him what he can say.

Mr *Sawyer*.] Your Vote may discourage him, that he may say little to you, and possibly he may reveal something in compensation, by way of discovery—Would hear him.

Colonel *Strangways*.] Hear him what he can say—Some vices of the man may not take away a man's testimony.

The Duke of *Buckingham* was ordered to be called in*, and a Chair was set for him on the left hand of the Bar, the Serjeant standing with his Mace on his right hand. Then the Duke saluted the House round.

Ordered, That the Speaker ask him, Whether he owned the Letter he sent him, and what he has to communicate to the House, of concernment?

The Duke sat a short space, covered; then the Speaker asked him, &c. and showed him the Letter, which the Duke owned. The Speaker then said, "The House is ready to hear what your Grace has to say, relating to the public service."

* *Burnet* says, "That the Duke, and desired to be admitted again. the first day of his being before the House, fell into such a disorder, that he pretended he was taken ill, But that next day he was more composed."

The

The Duke, standing, then said] I have written something, (*fumbling a Paper in his hand*) but will trust to my own present thoughts. I give this Honourable House humble Thanks for the honour done me, in admitting me to come and speak here. I have always made it my business to get the good opinion of this House; I desire that my actions may be examined, and I will stand, or fall, by the censure and judgment of this House: The business against me, I understand, is the breaking of the Triple Alliance; I had as great a hand in making it as any man: My going to *Holland* was to hinder *De Witt's* conjunction with *France*, and I did no ill service in it, and the more the thing is examined, the more my innocence will appear—I was not of the opinion of a War, and *France* to take all, and give us nothing; if my advice had been followed, there would have been better effects—It is not my practice to accuse, but it is hard if a man may not clear himself—I have been in as much danger, for my respect to this House, as any man; have been turned out of all my Places at Court; proclaimed Traytor; Witnesses hired to swear against me, and confessed so; no man can be exempted from malicious accusations, and all for favouring Bills from this House; and, after the proclaiming me Traytor, I had a Letter from a Sister of mine, which was alleged one from *Dr. Haven*, a Conjurer, but through his name any man might see *Richmond* and *Lenox**—I was not afraid of my enemies in the House of Commons, but afraid of being tried for my life, before you met. There have been great desires of having

* There was a poor fellow, who had a poorer lodging about *Tower Hill*, to whom the Duke often repaired, in disguise, in the night; and *Lord Arlington* had caused that fellow to be apprehended, and his pockets and chamber to be searched; where were found several Letters to the Duke of *Buckingham*, and one original Letter from the Duke to him, in all which there were many unusual expressions, which were capable of very ill interpretations, and could not bear a good one. This man and some others, were sent close prisoners to the *Tower*, and a warrant being issued, under the King's sign manual, to apprehend the Duke, he at last surrendered himself, and, on his examination at the Council Board, the Letter being produced, as soon as

he cast his eyes upon it, he said, "It was not his hand, but his sister's the Dutcheß of *Richmond's*, with whom, he said, it was known he had no correspondence." Whereupon the King called for the Letter, and having looked upon it, he said, "He had been mistaken," and confessed, "that it was the Dutcheß's hand;" and seemed much out of countenance at the mistake: Though the Letter gave still as much cause of suspicion, for it was as strange that she should write to such a fellow, in a style very obliging, and in answer to a Letter; so that it seemed very reasonable still to believe, that she might have written it upon his desire and dictating. *Earl of Clarendon's Life*, p. 430-434.

me removed from the King. I can hunt the Hare with a pack of Hounds, but not with a pack of Lobsters *—If this House desires it, I will remove from the King, and go beyond sea; no man ought to serve the King, whom the nation has no good opinion of—I have spent an estate in the King's service, when others have got thousands. Beggars that run away with the bags, when a robbery is done, you stop; but a fine Gentleman, riding upon the highway, you let go—I desire to be removed from my place, and to have leave to sell it—Persons are vehement upon me, and would ruin me—I submit myself, and actions, to the good construction of the Honourable House---and withdraws.

Mr *Stockdale*.] Desires, that, seeing the Duke is of your mind, you may join issue with him, and let him go beyond sea.

Lord *Buckhurst* †.] The Duke has informed you of nothing concerning “public affairs,” and why will you put him out of all capacity? Though his relation to him were ever so near, or obligations ever so great, would have him answer his accusations: But hear him first.

Mr Secretary *Coventry*.] This Duke's is not the same case with the Duke of *Lauderdale's*. The King may turn any man out of his service, and especially on your desires; but when it shall be upon record, that the Duke has uttered such words against the King, if a man asks whether such words are Treason, it may be represented, that he said the words, “of the King's being a Knave, and unfit to govern.”

* The Duke justified his own designs, laying all the ill counsels upon others, chiefly on Lord *Arlington*; intimating plainly, that the root of all errors was in the King and the Duke (of *York*.) He said, “Hunting was a good diversion, but if a man would hunt with a brace of Lobsters, he would have but ill sport.” He had used that figure to myself; but had then applied it to Prince *Rupert* and Lord *Arlington*. It was now understood to go higher. *Burnet*.

† Son of the Earl of *Dorset*, to which title he succeeded in 1677, having been created Earl of *Middlesex*, in 1675. He was a Volun-

teer in the first *Dutch* war, in 1665, and the night before the engagement, composed the famous Song, *To all you Ladies now at land, &c.* At the Revolution he was early engaged in the interest of the Prince of *Orange*, and was pitched upon to convey the Princess (afterwards Queen) *Anne*, out of the reach of her father's displeasure. He was a great Patron of Men of Letters, who have not been ungrateful in transmitting his name with lustre to posterity. He died in 1705, and was father to the present Duke. *Biographia Britannica*. Article [SACKVILLE.]

Mr

Mr *Boscawen*.] Has no kindness nor relation to the Duke, but we ought to hear him. Your judgment will not be thought just, though it is so in truth, by persons that understand not the reasons—Would have him acquainted with what is against him, and then you may proceed.

Colonel *Birch*.] The Duke has not spoken one word of “public” in what he has offered, but all “private.” It seems to him, that he would be drawn to accuse, but in modesty would not do it of himself—Would adjourn now, and let him know, “if he has any “public” thing to say, we are ready to hear him.”

Mr *Garroway*.] Would make no false steps in the business; would adjourn the Debate, but would have nothing said to the Duke. He seemed discomposed, and fumbled with a paper, and would “sell his place,” and could “hunt with hounds and not with lobsters;” but if any man desires he may be heard on any “public occasion,” would have him heard, but not any thing “private” from him.

Lord *Cornbury*.] Observes that the Duke has good intelligence of what we do here; for he began his discourse with the great business of *France*—If you accuse him, he is pardoned, and has the King’s pardon; being so secured, there is no justice to proceed upon these crimes—But suppose he should acquit himself of all the great matters relating to the King, yet here is a crime in the face of the Sun, a murder, and his living with that miserable woman in that perpetual adultery. He never was tried for killing her husband, and would be satisfied how you may try him; but how will you reach him? He must be tried by the Lords. Every body knows the great friendship that you, Mr Speaker, have for him; and would not have you write or speak to him—But if he has any thing more to say, you may hear him to-morrow.

Sir *Robert Howard*.] Moves to adjourn the Debate till to-morrow.

Mr *Powle*.] In Impeachments, “by way of justice,” is another way of proceeding, but, “in point of fame,”
every

every man must lay his hand upon his heart, in his judgment of him.

Sir John Monson.] Has attended this noble Lord's speech, but wonders that he should interpret the weighty affairs of this House to be his own private affairs, and believes, that his mind changed from what he had to say at first, upon our Debate.

The Debate was adjourned till the next day, ten of the clock.

The Speaker.] Reminded the House, That it is against Order, that Members should salute Messengers from the Lords House, as if this House was the School of Compliments.—The Speaker only ought to do respect for the whole House.

A Message from the Lords, That the King has appointed both Houses to attend him with the Petition concerning a General Fast *, in the Banqueting-House, to-morrow at three of the clock in the afternoon.

[*Mr Speaker reports,* That he had presented the Addresses to his Majesty, who was pleased to return Answer to this effect : “ That he was always ready to preserve them in their Liberties and Properties, and to secure the Protestant Religion ; and would take care the Militia should be in readiness upon all occasions, to secure the Government.”]

Wednesday, January 14.

The adjourned Debate resumed.

Sir John Monson.] Would know whether the Speaker has any more letters, or intimations, from the Duke of Buckingham, and that, [if he had,] he would produce them.

Sir Eliab Harvey.] Moves to state the Question, upon

* This was “ to beseech his Majesty to set apart one or more days, wherein they might, by Fasting and Prayer, seek a reconciliation at the hands of Almighty God, and with humble and penitent hearts beseech him to heal their breaches ; to remove the evils they lay under ; and to avert those miseries where-with they were threatened ; to continue the mercies they yet enjoyed ; and to bestow his abundant blessing on his Majesty and the Parliament,” &c.

the

the matter of the Debate adjourned yesterday; the Question, "To remove the Duke of *Buckingham* from his Majesty's person, and employments, for ever," to be the Address to the King.

Sir *Charles Wheeler*.] Would do things so like an honest man, that, if informed of any other matter, he may not repent him of his vote. The Debate arises fairly from the first vote, "All Papists, and persons obnoxious, to be removed from the King." That he [will] stick close to. If the House will add "all others guilty of murder" &c. and have all scandalous livers removed, he is content—Many others may be as perplexed in the vote, and entangled, as he is; therefore would come to a fair Debate. If any person, be it who it will, is "so obnoxious," would fairly give his vote to have him removed—Would a man be content, that every Duke in *England* that has killed a man, or lived in adultery, should be comprehended in your vote as dangerous to the Government? Whether "seizing on money," "popishly affected," or "has made a League," let all these come fairly before us—How carefully did we proceed in the Duke of *Lauderdale's* vote? The Duke said, "he was not a man to be an Accuser, but, if examined, he would throw himself upon the judgment of the House;" if he did not make the League [*French Alliance*] he may know who did it: Shall we lose such an opportunity, as this offer of the Duke's? Though not expressed, yet it is fairly implied, that he can tell you—Would set the saddle upon the right horse, and send for him, if he will come.

The Speaker.] Dr. *Williams* addressed himself to him thus: "That his name, he has heard, was made use of in the House, about what he should hear the Duke say of the King; protests he never heard the words, nor said he heard them*."

Mr *Robert Philips*.] Dr. *Williams* told him, "That the words were not only spoken once, but frequently, by the Duke."

* See p. 246.

Sir *John Coventry*.] Has no malice against the Duke, but could not be silent when a worthy Member, Colonel *Titus*, can tell you as much.

Colonel *Titus*.] Rises up very unwillingly to speak in the matter, for he has been under a misfortune from this person—Will not do a public good for a private revenge—He has heard the same things from Dr. *Williams*.

Mr *Sacheverell*.] We are not going to hang the Duke, nor try him for his life; we only desire to remove him from the King. The Question might have been yesterday, but he being too foul, we would not touch him—*Wheeler* said, “affairs are not mended since Lord *Clarendon*’s banishment;” but the House is a judge of that; not he; but if this person is not removed, will never move to have any removed more.

Sir *Thomas Clarges*.] The Duke told you, “he had no hand in the *French Alliance*,” and at the same time that “he would have had no ships, but towns:” Averse from the war, and yet would have towns and no ships! When he told you, “he was not for breaking the Triple Alliance,” a thing of great honour! but “for putting most of the towns into the *French* hands,” it was one of the elegancies of speech which men call a Bull—“Would have leave to fell his place”—He has, under the Signet, two thousand four hundred pounds a year, in compensation of what he has given for the place of Master of the Horse; and yet he affirms “he has nothing from the Crown”—The method we take is by common fame here; the wisest Parliaments have taken it before us. *Henry IV.* in the case of the Abbot of his Confessor, removed him for no other reason but for not being loved by the people, though the King knew nothing against him—Many more have been removed at the instance of the Commons—Would not have a hair of his head touched, but a learned Judge (*Atkins*) said here, in Lord *Clarendon*’s case (about removing him) “Was he a young Gentleman, and came to town with money in his pocket, and gave it to a gamester to improve it for him
by

by play, and he lost it, believes he should not put another bag into such unlucky hands to play for him"—Would have the Question, "That he is not a man fit to be about the King." Whom will you impute your Grievances to? No man will say, To the King; but if such a man's crimes must be alleviated, he is for the King and the Commonwealth—Would, perhaps, move you, that no Member for the future, whilst Parliaments sit, should have the temptation of offices—Moves for the single Question, as before.

Colonel *Sandys*.] Has met with a servant of the Duke's, who informs him, "that the Duke desires to be heard here again; being under a surprize yesterday, he has something farther to say."

Sir *Joseph Tredenham*.] Says the same.

Mr *Russel*.] Has no malice against the Duke of *Buckingham*, but would have this Question "for removing him" passed; fearing the danger the King and the nation are in, from a knot of persons that meet at the Duke's, who have neither Morality nor Christianity, who turn our Saviour and Parliaments into ridicule, and contrive Prorogations; and would have such persons removed.

Colonel *Sandys*.] Remembers that my Lord Keeper *Finch* desired to be heard, and was heard, but ran away; but the Duke has no reason to do so; you have dealt favourably with him: But would hear him; you cannot, it may be, have notice of things without hearing him.

Sir *Thomas Lee*.] Knows nothing of what the Duke intends, but he has been at the head of Councils, and knows much—The kingdom is in misery, a little knowledge of affairs may bring you to more, and you may at last know the end—He has no design, nor hopes, but to keep his property in the country—Pardons, it seems, in Parliament have not served the turn—Would call in any man that can inform the House.

Lord *St John*.] Is a friend to no man that gives ill counsels—Any in the private Cabal that advised against the House of Commons, "to force the House of Commons

mons to pass Bills, and, if any refused, to take off their heads *—Would have these things enquired into—He has been told it by one of the CABAL †.

Mr *Sawyer*.] Did not expect, yesterday, excuses, from the Duke, of his own actions, but discoveries of matters of concernment to the nation, relating to the Public; but would not call him in to do the same thing again, only would have light into those causes that have produced such ill effects. He was called in only for discovery—The House proceeds not by fame of vulgar persons, but upon things as plain as the Sun. This new light, a thing called wit, is little less than fanaticism, one degree below madness—Of *Democritus's* family, he laughs always at all Religion and true Wisdom—We come here to take away examples of such things; such as this Duke, as great as any. This kind of Wit's best ornament is most horrid blasphemy, oaths, and imprecations, which have done more hurt, in a few years, than all the Convents and Jesuits could do in a hundred years—Prays, that the Duke may not be heard to “matters of excuse,” to acquaint you with that which all the world is satisfied in; but confined only to “matters of discovery.”

Mr *Garroway*.] Fears not any thing the Duke can say, in “excuse” of himself; he had little advantage upon us by it yesterday. “Sequestering him only from his employments, and the King's presence,” is a gentle way, and would have it done in as gentle words as possible—It is likely he may have been as ill an instrument as any; you have Grievances, but will you not have the causes discovered? Would call him in, and hear him at large—Would have Lord *St. John's* Question asked the Duke, or any other delivered you.

* *Burnet* says, “That Sir *Ellis Leighton* assured him, that the Duke of *Buckingham*, and Lord *Berkeley*, offered to the King, if he would bring the army to town, that they would take out of both Houses the Members that made the opposition [to the Declaration.”]

† The CABAL (so called from the

initial Letters of their Titles) consisted originally of *Clifford*, *Arlington*, *Buckingham*, *Ashley*, (afterwards *Shaftesbury*) and *Lauderdale*. Of these, three only, who were now attacked by the Commons, remained; *Clifford* being dead, and *Shaftesbury* having made his peace.

Mr Secretary *Coventry*.] Lord *St. John* said, “one of the CABAL told him, &c.”—Would know what the meaning of the CABAL is.

Mr *Garroway*.] That is so great a mystery, that he would know it above all things.

Mr Secretary *Coventry*.] We do things, not voluntarily, but by Law; the King's Privy Counsellors! and it is perjury for us to reveal—As for the Committee of foreign affairs (of which he is the only man of this House) wishes (he protests to God) that you knew what opinion he has ever given of affairs.

● Sir *William Lewis*.] The way is to hear him at large, and then propose your Questions, and he has time by it to ask the King's leave to answer—That has been anciently done in these cases.

Mr *Powle*.] Commends Secretary *Coventry* for his secrecy. This House has liberty to examine any man, not being a Peer, and what he discovers is no breach of his oath; but if this House must take no notice of things, and persons are rescued from punishment, we may be all destroyed. A Privy Counsellor may do it safely, without breach of his oath—In Lord *Strafford's* case, examination was upon oath of what was done at the Council-table, and no exception was then taken against it—CABAL is a new word, and what is said there is not said in Council, any more than in the bed-chamber; and those few men of the Cabal to encroach upon Royal power, as the Duke of *Ireland* did!—Would have that Question “of the Cabal” proposed to the Duke.

—Sir *Thomas Meres*.] “CABAL” and “Council” are different, but we have power over both.

Sir *John Birkenhead*.] In Lord *Strafford's* case, the Attorney General, when he was examined here, said, “he would answer, when he had his Master's leave”—It is perjury in any Privy Counsellor to answer without it.

Sir *Charles Harbord*.] To give counsel to the King “to take away Privilege of Parliament!”—No Council can protect him.

Serjeant

Serjeant Maynard.] Supposed this “of the Parliament-men’s heads” (*said in the King’s Council*) to be set upon the House;” will not meddle with that—Knows not how the Question propounded about the CABAL is understood.

Mr Sacheverell.] The Duke said, “three, four, or five thousand pound a-year some had got;” Would have him asked to every one of them.

The Speaker.] The things proposed to be asked the Duke he will state—“The private CABAL to destroy the Privileges of this House”—“Altering the Government, where and by whom?”—“What meant by four, five, or six thousand pounds a-year gotten?” “Who got it? and by what means the Triple Alliance was broke?” “The *Smyrna* fleet set upon?” “The Parliament prorogued?”

Sir Robert Holmes.] He was commanded to fall upon the *Smyrna* fleet, and has his orders to shew from the Lord High Admiral to do it*.

Sir Nicholas Carew.] “By whose advice a *Frenchman* was made General of an army, when here raised,” another Question.

Mr Secretary Coventry.] Count Schomberg is far from a *Frenchman*; his mother was an *Englishwoman*, and his father a *German*. He first commanded the *Scots*, under the Duke; and, would he have been a Papist, might long ago have been Marshal of *France*†. —Though *Germany* be one country, they are not of one mind in this war; divers Princes are now arming.

* This perfidious and piratical attempt on the *Smyrna* fleet, though performed with the utmost bravery and resolution by Sir Robert Holmes, and the Earl of Offory, miscarried. Though the *Dutch* defended themselves with amazing obstinacy, they could not have escaped, (as they did) if Sir Robert Holmes had condescended to impart his design to Sir Edward Spragge, (whom he met at sea) and desired his assistance.

But though Sir Robert applied to him for intelligence concerning the game he sought, he kept the secret, that he might engross the whole honour and profit to himself, and thereby fell into the disgrace of undertaking a bad thing, without having the glitter of good success to gild it over. *Ralph.*

† He was afterwards made a Marshal of *France* in 1676.

in *Germany*, that will neither obey the Emperor, nor the King of *France*—He came first to Marshal *Turenne*, when he was a Protestant.

Sir *William Coventry*.] What was said from the Bar, of Monsieur *Schomberg*, needs not his confirmation. This Gentleman might be abler than another man, it may be reasonably supposed, for the King's service, having served long in *Holland*, and knows the condition of that country—Would lay no more weight on this than will be borne—I wish this was our greatest Grievance; the Gentleman came only for the command of the army, when intended for foreign service, and when that intention was laid aside, he went away.

Sir *Thomas Lee*.] Is for avoiding all things that give any umbrage or jealousy—It may be thought as necessary to have “a foreign army,” as to have “a foreign General;” they may both give umbrage or jealousy, and therefore would avoid them.

Sir *Charles Wheeler*.] Does not believe that an *English* General would serve for such purposes; but a “foreigner” has given us great jealousies, and would have that one of the Questions.

Mr *Love*.] Would have it another Question, “who advised that the army should be appointed to draw up towards *London*, to awe this House, to make us vote what they please?”

The Duke of *Buckingham* was called in, as before, and then spoke thus:

“In the first place, I return this Honourable House humble Thanks for the Honour of twice admitting me; especially when I consider, how ill I expressed myself yesterday—Consider the condition I am in; in danger to pass for a vicious person, and a Betrayer of my Country, all the world over—I have the misfortune to bear the blame of other men's faults—I know that it is laid against me the “revealing the King's counsels,” “correspondency with the enemy, in time of war,” and “having hindered what the Council would have done”—I hope I shall have pardon, if I speak truth for myself. I told you, that, if the Triple Alliance had advantage in it, I had the honour to have as great a hand in it (I speak it without vanity) as any man. Then upon the *French* Ambassador's and other intelligence, I had

had orders to compliment upon the sad subject of *Madame**—I thought it for the service of the King, that the *French* ought not to endeavour to be considerable at sea; we were jealous of them, that the *Dutch* should make their peace with them, because they had power to conquer. When I returned, I had all the demonstrations imaginable that the *French* had no such thoughts, but that the King of *England* should be master at sea—I pretend not to judge, whether I, or another, was in the right, but leave the House to judge. At that time, I, and Lord *Shaftesbury*, were of opinion not to begin a war, without advice of the Parliament, and the affections of the People, that the Parliament might join in it; and I believe the King, at the head of his Parliament, the greatest Prince in the world: This was *Shaftesbury's* opinion and mine, but not Lord *Arlington's*—Then I was of opinion not to make use of the *French* ships; but to have half the value of them in money, for *English* ships, which would have been of more service; the *French* ships of no use to us, because of no experience, and the use of our seas, learned by them, of great danger to us—Lord *Arlington* was of a contrary opinion—I was sent to *Dunkirk* to the King of *France*, *Arlington* to *Utrecht*—I endeavoured to have money, instead of ships; at my first audience, the *French* King was willing to comply with it, but, after some time, by letters and returns from hence, it was altered—I make no reflections, but declare matter of fact—Then Lord *Shaftesbury* and I were of opinion to order the war so, that the *French* were to deliver towns into our hands: An useful precedent! Lord *Arlington* was of opinion to have no towns at all delivered, for one year, and here is the cause of the condition of affairs, with that of the fleet, and the *French* army let go on to conquer; they get all, and we nothing, and agree for none neither—Consider who it was locked up with the *French* Ambassador†; my spirit moves me to tell you. When we are to consider what to do, we must advise with the *French* Ambassador—---I will not trouble you with Reports. Look not upon me as a Peer, but as an honest *English* Gentleman, who have suffered much for

* King *Charles's* sister, the Dutchess of *Orleans*, who, in 1671, soon after her return from an interview with her brother at *Dover*, was poisoned at *Paris*, (as was supposed) by the direction of her husband. The Duke of *Buckingham* was sent over, on that occasion, with compliments of condolence.

† Reflecting on Lord *Arlington*. The *French* Ambassador, here men-

tioned, was M. *Rouviigny*, a Protestant, whose son was created Earl of *Galway*, by King *William*, and commanded the *British* forces in *Portugal*, in the reign of Queen *Anne*. *Burnet* says, "He had the appointment of an Ambassador, but would not take the character, that he might not have a chapel, and mass said in it."

my love to my Country---I had a regiment given me, which was Sir *Edward Scott's*; and, not knowing the Law of *England*, I gave him fifteen hundred pounds for it; no Papists, nor *Irish* in the regiment---I will say nothing of my extraordinary gains. I have lost as much estate as some have got, and that is a big word---I am honest, and when I shall be found otherwise, desire to die---A man that has not gotten by all this---I leave it to you. If I am a Grievance, I am the cheapest Grievance, after all this, that ever this House had; and so humbly ask pardon of the House for the trouble, &c.

Then the Speaker told the Duke, "That he was commanded, by the House, to ask his Grace some Questions, if he pleased to make answer to them." The Duke answered, "he was willing."

Question 1. Whether any persons have, at any time, declared to him any of their advices, or ill purposes, against the liberty of this House, or propounded any ways to him for altering our Government; and if they did, what was that advice, and by whom?

Answer.] It is an old proverb, "Over shoes, over boots." This reflects upon one now not living [*Lord Clifford*] and I would have Pardon for not naming him, and fear it will be thought a malicious invention of mine. I have said nothing yet but what I can justify; but this not.

2. What his Grace meant by this expression yesterday--["that he had gotten nothing, and that] others had gotten four, five, or six hundred thousand pounds;"] who they were that had gotten it, and by what means?

Answer.] I cannot acquaint you how they got it, because not well acquainted myself with the means of getting Money: What the Duke of *Ormond* has got is upon record. *Lord Arlington* has not got so much, but a great deal.

3. By whose advice the army was raised, and Papists set to officer them, and Monsieur *Schomberg* to be their General?

Answer.] I cannot say "by whose advice," but, on my honour, not by my advice; but was told by a man that is dead, "that *Lord Arlington* sent for him," and it will be easily proved.

4. Whether he knows, that any have advised to make use of the army to awe the Debates and Resolutions of this House?

Answer.] This is the same Question of a discourse from a man that is dead to a man that is living. If I had deserved it, I might have had the command of the army that Monsieur *Schomberg* had; but I have been told, that *Lord Arlington* would have the Government by an army.

5. By whose Counsel and Ministry the Triple League was made?

Answer.] *Lord Arlington* and I were only employed to treat, and

and finding the danger that we were [in of being] cheated, pressed the Ambassadors to sign before they had power—It was an odd request to the Ambassadors, yet they did sign.

6. Who made the first Treaty with *France*, by which the Triple League was broken, [and the Articles thereof?]

Answer.] I made no Treaty.

7. Who advised the shutting up the Exchequer, whereby the Orders of Assignment and Credit of the Exchequer [were broken and] destroyed?

Answer.] I was not the adviser. I lost three thousand pounds by it.

8. And the Declaration about matters of Religion made?

Answer.] I do not disown that I advised it, but no farther only than what might be done by the Declaration by Law.

9. And the *Smyrna* fleet fallen upon, before war was declared?

Answer.] It was Lord *Arlington's* advice; I was against it; so much against it (as careful of the honour of the nation) that I incurred some anger from the King. Lord *Arlington* principally moved it—And I might say more.

10. And the second Treaty with the *French King* at *Utrecht*, and the Articles thereof?

Answer.] Lord *Arlington* and I were sent over to *Utrecht*, and found in the common people of *Holland*, in our journey thither, the greatest consternation imaginable—Like burning the Rump in *England*, crying, “God bleis the King of *England*!” and “cursing the States;” and had we then gone over and landed our men, we might have conquered the country; the Prince of *Orange* would have had Peace with *France*; but what share should we have had? Though he was the King’s nephew, yet the King must be kind to his own country—If Peace had been then, we had been in worse condition than we were before: At last, the Prince of *Orange* hoped for a good Peace; but I was not for *France* to have all, and *England* nothing. The consequence would have been, *Holland* must depend on *France*, if *France* had conquered near *Germany*—I think it a wise Article, that *France* should not make Peace without us.

11. By whose counsels the war was made, without advice of Parliament; and the Parliament thereupon prorogued?

Answer.] Lord *Shaftesbury* and I were for “the advice of Parliament for the war”—I can say nothing to “the Prorogation”—I believe the Parliament will never be against a war for the good of *England*; and so desire the pardon of the House: I know not how words may have slipped me, and lay myself at the feet of the House, as an *English Gentleman*.

The Duke then saluted the House, as before, and withdrew.

[Debate.]

Colonel *Birch*.] What the Duke has told us are personal discourses of one that "is dead." He may inform us, if he pleases, of one of those "living"—Would have him declare them, and have him called in again.

Mr *Sawyer*.] What came from a dead man can be of no use imaginable; but here is no answer made to "fetting upon the *Smyrna* fleet." Probably he is less guilty as to State affairs, but for public scandal, would have the Question put "for his removal."

Sir *Nicholas Carew*.] Hoped for great light from the Duke, but he gives no light as to persons of a contrary opinion to him.

Sir *Courtney Poole*.] Thinks us not so much in the dark—Thinks this noble Lord will satisfy you farther tomorrow—He named but one about the army: He may tell you more.

Sir *William Lewis*.] He had no proof of the most material points, but from a person dead.

Sir *Thomas Lee*.] All he has said terminates in one man; but he believes no man so big as he represents him—It was in his power to have given larger answers, if he would—He cannot believe that some one person, without help, could carry counsels against two or three; not one evil against two good—By the same right, you may send for him, as he came before; and if not, you may send to the House of Peers for their leave.

Mr Secretary *Coventry*.] We have little light from the Duke without explaining—No Oath of Secrecy does bind a man to promote an ill act; but as for promoting, or not promoting a league, 'tis no sin—In one of the Answers, the Duke makes Lord *Arlington* instrumental in breaking the Triple Alliance; but it is not the Duke's saying it, that makes him so; nor Lord *Arlington*'s saying it that makes the Duke so: Otherwise, happy is the first accuser—Would be equal on both sides, but would ask, Whether any man believes that Lord *Arlington* would own all this? You are to have farther light from the Duke. Send to him

him to come again, if he be willing, or, if not, to the House of Lords, for leave for him.

Colonel *Birch*.] Would fend out two Gentlemen to know, whether the Duke has any thing farther to say—That is parliamentary.

Sir *Robert Howard*.] Some things came from the Duke that require us to proceed more carefully, than we are about to do; but the Question that is pressed is like hearing him after, and condemning him first. Upon the whole, you cannot but think the time of the day, and the thing, great enough to put us upon considering it till to-morrow.

Mr *Ruffel*.] If the Debate be adjourned, the Duke, by his power, may prorogue us again, as he has done formerly.

Mr *Sawyer*.] Pities the Duke's condition here, and the loss of his estate; but would have you proceed in it.

Sir *John Morton*.] He that has made bold with his own King, in contempt, and with the King of Kings!—Would have the Question.

Sir *Nicholas Pedley*.] The Duke may have Patents for life. The Serjeant of your Mace has a Patent for his place, for life, and it is a freehold in him. You cannot take away the Duke's office without legal proceedings against him—By rule of Law, there must be a *scire facias* (which is a judicial Writ to call a man to show cause to the Court whence it issues, why execution of judgment passed, should not go out)—You cannot put a man from his freehold; and he would not have the Question.

Sir *Thomas Lee*.] Sees not such danger in this, as is alleged—By Impeachments, the Lords are Judges. By the Address we make to the King, the King cannot grant against Law more than is in his power—Would clear it to the House. It may fall out to have the same case before you again, and would not have any person out of the power of the House of Commons.

Mr *Waller*.] Moves, not for the Duke's sake, but for his own. You take away from him more than you leave him—Common fame against one of the Lords is the same

same thing here—You go with an humble desire to the King to have our judgment put in execution—Because you have not liked men, they have been removed—Some say, he never said the word alleged against him; others say, others said them—No proof—Witnesses may be corrupted—Not many men are hanged for want of their pardon, if recorded—Never any man was hanged, with his pardon in his hand—This is a great convulsion of state, a Peer to come down to your House. If times are so corrupt, I must piece out my innocence with a pardon—If this nation be ever preserved, it must be in this place; and where so great a power is, if not as exact a justice with it, we are not safe—God has given us great power, and thank God for it.

Mr Secretary *Coventry*.] The Duke's office is a Patent, and a Freehold—The Duke may have a recompence for his office.

Sir *Charles Harbord*.] The Duke's office cost him a great sum of money, and it may be any man's case—Pray be tender in what you cannot put the King upon, in point of Law.

Sir *William Lewis*.] We have cause to be tender in the things offered, and “to desire that the King would be pleased to give him leave to sell his place.”

Lord *Cavendish*.] Should not be for the latter part of the Question, if it “took his place” from him, for the King may “give him leave to sell it.”

Lord *Cornbury*.] Is not for taking away the Duke's life. Would have things rightly understood—It concerns not his Freehold; he holds it only during the King's pleasure. Is not against his “leave to sell it”—Do you intend to leave “employment” wholly out of the Question?—He has a Patent for Gentleman of the Bedchamber, and a Pension for it, and his Lieutenantcy of *Yorkshire*; and, on the other side, would not recommend him to the King, and not think him fit to be about his person.

Sir *John Duncombe*.] Has a great compassion for this honourable person's misfortunes—What comfort can a man have,

have, after such a charge, without some compensation for his place?—Which he moves for.

Mr *Harwood*.] Has had great honour for this person, but now must lay all aside here—With what face can you make such an Address to the King?—You do nothing to take away the King's charity, in compensation of his places, and doubts not but the King will do it—It is a burden greater than he could wish he had, but would not put it upon the King by our Address.

Sir *William Coventry*.] Makes this Declaration, not by what he shall say, to move you to a sharper censure than you intend—Moves only for the milder part of your Debate. “To remove him” is the general sense, but would not wound other men, by destroying his Patent, nor wound his Freehold, nor take away his Blood—(If that was intended, then another manner of proceeding must be, than has been already)—Would have added to the Question, “reserving to him the profits of such places, as of right, he has, by any inheritance, or freehold.”

Sir *William Hickman*.] Seconds it.

Mr *Powle*.] Would have him “removed out of offices that are granted him at his Majesty's pleasure.”

Mr *Swynfen*.] Be the offender ever so great, or the offence, you may err in the manner of proceeding—Would have you proceed by such rules as agree with justice—In the Duke of *Lauderdale's* case, persons did prove things against him (your Members)—Looks for judicial proof before you; information has been, but remembers no proof—It has been the course, that great Ministers of State do take out those pardons, sometimes one or two in a year—As to impeachment, this way was well; for then all evidence on both sides is heard—Does not think “removal from the King's presence” a light thing. Put the case, you had this upon your own Members—Would you have Freeholds taken away without proof? Thinks it an ill precedent—Let the case be this, Lords or whose it will, we have nothing but justice for our own preservation—Whoever shall judge a man, and
not

not hear him to the point, though his judgment be just, he is unjust in judging.

Colonel *Strangways*.] There is no freehold in a grant “at the King’s pleasure”—Will you make *Lex et consuetudo Parliamenti* nothing?—We do as a Grand Jury does, persuaded in conscience that the thing is so—*Neither Fornicator, nor Adulterer, &c. shall enter into the kingdom of Heaven*—Hopes that virtue will be countenanced here—This vote is only “to remove such a Counsellor,” to restore the King, and honour and integrity unto the kingdom: No sanguinary Law—Not for taking away his freehold, but only what he holds at the King’s pleasure—Hopes that men of sobriety and honesty will be near the King, and would have the Duke removed.

Sir *Thomas Meres*.] “Removing from the King’s person” is, in consequence, removing from places and employments—It is also said, “we are heard as a Grand Jury, in impeachments;” but, as you proceed now, there are objections; you now give your last judgment, whatever the King will do. Says another Gentleman, “you have heard no proofs;” but these shall not go without an answer—This House had great power in judgment by common fame, as every one of us is told without doors. *Lex Parliamentaria*. Thirty persons, in Mr *Prynne*’s books, were desired to be removed from former Kings; because the people spoke ill of them; some of them, though not all, were removed—The Duke is a fine person, and taking with us, and we have a tenderness; but it does not become this House to countenance selling of places—Though common fame is the great prerogative of this House, yet would use it very sparingly.

Sir *John Birkenhead*.] Is against clancular and clandestine proceedings—In the common law, if the Christian neighbourhood say, “one keeps another man’s wife,” yet upon his oath he may clear himself—Lord *Bacon* calls common fame “a common liar;” and the precedents cited, of removals, were in ill times—Is against the latter part of the Question.

Mr

Mr Powle.] *Birkenhead* said, "the precedents, cited; were of ill times,"—11 *Richard II.* a great while before his deposing: That was done in the 22d. The effects of those censures then kept things quiet, till his deposing—The Duke of *Ireland* was then removed, for encroaching upon Royal power—Wishes we might ever use this power moderately, and that we had no occasion of using it now—*Birkenhead* would not have mistaken him, if as well versed in History as Records.

Colonel *Birch*.] A good pattern before us, of what we may say of the dead—Is one of those [who] desired no resolution of this matter till another day; and did it then for another reason, not for favour to the Duke—It is the custom, that the Speaker call for a clear account, and wishes it had been now from the Duke: But cannot a Gentleman give a clear opinion in the Question? Would not call for it—When once the Debate was, in the Convention, of recommending Counsellors to the King, it was answered, "all the awe you have upon the King's Council hereafter is, if they be such as the people have an ill opinion of, you may remove them;" and it is better for us then to name them, for we must be responsible for them—Shall you depart from this, and call for direct proof of persons only, and not things? You have great prejudice by it—You cannot take his freehold from him by your vote, and he is therefore for the Question.

Sir *Thomas Littleton*.] Fears, that you may clash with the Lords upon another thing—When the point was of removal from the King's presence, 29 *Henry VI.* as now, the King answered, "he is content to remove them from his presence, except they be Lords, unless they approve." Whether any clear precedent, the Commons originally to go to the King to remove, in case of Peers, is not satisfied—It is not the case of the Duke of *Lauderdale*, who is no Peer.

Lord *Cornbury*.] *Littleton* is mistaken in the precedent of 29 *Henry VI.* The Duke of *Somerset*, and the Bishop of *Winchester*, were removed—The words of the accusation

tion were, "The people spake ill of them"—The King grants the request of the Commons, unless to some few persons that were Lords, who are necessary about him—The Lords concurrence will beget another Debate, but the King is still at the same freedom.

Sir Thomas Meres.] If the Lords have any exceptions against our proceedings, let us not be without answers to them. 29 *Henry VI.* "The King is willing they shall be removed, to see if any one will approve."

Resolved, That an Address be presented to his Majesty, to remove the Duke of *Buckingham* from all his employments that are held during his Majesty's pleasure, and from his Presence and Councils for ever.

Thursday, January 15.

Lord Obrien delivered a Petition about "his Wife's lands granted away from him, and his writings taken from him by a file of musqueteers, and cannot obtain his right without your help." It was referred to a Committee.

Lord St. John.] Has advised with some Lawyers about a Bill he had formerly leave to bring in, of *Habeas Corpus*, for people sent into *Ireland*, and out of the reach of the law.

He had leave to bring it in.

Sir Gilbert Gerrard.] Has a complaint against a great Minister of State, the Earl of *Arlington* *—All great affairs and transactions go through his hands—He has been the great Treasurer; the management of that must pass by him—He has no prejudice to him, or disoblige-

* *Bennet*, advanced afterwards to be Earl of *Arlington*, was made Secretary of State, by the interest of the Popish party, [in 1642.]. He was a proud man. His parts were solid, but not quick. He had the art of observing the King's temper, and managing it beyond all the men of that time. He was believed a Papist. He had once professed it, and when he died, he again reconciled himself to that Church. Yet in the whole course of his Mi-

nistry, he seemed to have made it a maxim, that the King ought to show no favour to Popery, but that all his affairs would be spoiled, if ever he turned that way; which made the Papists become his mortal enemies, and accuse him as an apostate, and a betrayer of their interests. *Burnet.*

He died in 1685, leaving an only daughter, married to King *Charles's* favourite son, the Duke of *Griffin*.

tion

tion from him, but it is a duty he owes the King and nation—It was just upon your heels the taking away your liberties, contrary to the Laws of the kingdom; and, to back this, an army was raised of dangerous men, unfit to command—Nothing has passed for some years but through his hands; the army, the Declaration; he the great conduit-pipe: This instance many within these walls know, and abroad he is reported a Papist, and reconciled to the Church of *Rome*—In the Journal you may find the Act for suppressing of Conventicles; upon his Majesty's power to suspend Laws in the Proviso; upon the division of the House, *Arlington* staid in for it with not above thirty—Every thing passed through his hands; all Licences, according to the Declaration.

The Articles he has to exhibit against Lord *Arlington* are under three heads.

1. That the said Earl hath been a constant and most vehement promoter of Popery and Popish Counsels.

2. That the said Earl hath been guilty of many and undue practices, to promote his own greatness, and hath embezzled and wasted the treasure of this nation.

3. That the said Earl hath falsely and traiterously betrayed the great trust reposed in him, by his Majesty, as Counsellor and principal Secretary of State.

[*The Particulars of these Articles will follow in Lord Arlington's Speech in the House.*]

Sir *Robert Carr*.] Assures you, that he does not oppose the bringing in the Articles, or any thing objected against Lord *Arlington*; but he has a letter to the Speaker to be communicated to the House.

Lord *Obrien*.] Knows not but what has been said yesterday may have been the occasion of this letter, and would have it read.

Sir *Gilbert Gerrard*.] Then proceeded to the Particulars of Lord *Arlington's* charge (*which will follow in the Defence.*)

Sir *Charles Wheeler*.] Lord *Arlington*, with Lord *Osford*, brought him to kiss the King's hand, at his return from *Jamaica*, &c.—More may be said, but when his country's service, and the honour of the nation, is concerned,

cerned, must lay all private considerations aside—To the first head of the Earl's "being a constant and most vehement promoter of Popery, &c." He serves for one of the Universities, (*Cambridge*) and so is more than ordinarily obliged to speak to this Article: The Declaration was a great means to bring about that end. A sad condition the kingdom of *Ireland* is in; it must cost our blood and treasure—There are sixty thousand *Irish* Papists; and at the King's return, special care was taken that they should not be in strong walled towns, and an Act passed for it there; and, notwithstanding that, a letter was signed by Lord *Arlington*, with a *non obstante* to this Act, "that Papists may inhabit walled towns"—Would have that letter read, and it will tell you how it does especially strike off that Act of Parliament—Lord *Arlington* was owner of a ship that fell to piracy and robbed the *English*; and, at this time, the Lord Lieutenant of *Ireland* complains of this *Fitzpatrick* into *England*, but could have no answer—But he had two thousand pounds to pay his regiment—An objection may lie, "that all might pass his office, and he but a Minister, and does but obey command, being but a ministerial officer." In cases absolutely contrary to the Law of the land, there a Minister ought to be so generous as to put his Majesty in mind what is against Law, and will contribute to the King's hurt—In the time of the late King, *Montrose* had twenty thousand foot, twelve thousand whereof the King would have march into *England* to join with four thousand horse. The King knew not how to join them, and, in great courage, would go himself: Lord *Gerrard*, the General of the Horse, thought it treasonable to carry the King out of *England*, and told him, "Sir, I will go, if you please; but I will rather lay down my commission than carry the King out of *England*." How tender of their actions some men are! In the Act of Conformity there is "Assent and Consent;" we are sure that he that gives it is one of us. Here was "Assent and Consent" in Lord *Arlington* in this matter—The ministerial Apothecary, when we are sick, is called upon as well as the Doctor—The way of proceeding

ceeding with the Duke of *Buckingham* had many Queries ; what was proved ? Would go on in this with the same vigour, and apply your Vote of the Duke of *Lauderdale*, of “ dangerous and obnoxious to the Government,” to the present affair—Will undertake to bring proof of the charge, and moves to address the King, “ that this noble Earl may for ever be banished from the King’s presence.”

Mr Secretary *Coventry*.] Desires to tell you the custom of the Secretary’s Office. (Wonders that the Proviso made so many years ago was now mentioned, which Lord *Arlington* was for, with thirty more, and then that Lord was not suspected of Popery.) The Grooms of the Bed-chamber sometimes get the King’s hand, and they sometimes got the King’s hand, and it was not allowed by the Secretaries, only to avoid counterfeiting the King’s hand, and the thing entered in the office—If orders that the officers should not obey orders, without the Secretary’s countersigning, in Council, let the Secretary’s opinion be what it will, it is not in the Secretary’s power to do what he will ; but when the Council, or the King, order such a letter to the Lord Lieutenant of *Ireland*, it is not his fault—If Lord *Arlington* has counterfeited the King’s hand, it is a fault, but if he has countersigned by order, he is not to blame : And will you for that banish him ? A General is not punished, because he has done bravely, but because he has fought without order : It is not reasonable to remove Lord *Arlington* upon such allegations—In the Duke of *Lauderdale*’s accusation, four Members deposed an article—You heard the Duke of *Buckingham*, and hopes you will do the same justice to this Lord—You are not ripe for *Wheeler*’s vote—A Secretary of State may speak with Papists, and “ because I bring a Petition from a poor Papist, therefore I am one,” is no consequence—You have not yet stated what it is to be “ popishly affected ;” and therefore your judgment cannot be given—Is for all that deserve ill, to be punished ; but do the same to this Lord as you have done to the rest.

Sir Gilbert Gerrard.] This Lord is in the mouths of all people, and in their hearts they are against him. He would have the articles read, and will give an account of them, one by one.

The Speaker.] Moves that he may read Lord *Arlington's* Letter. *The Letter was read accordingly, as follows :*

“ MR SPEAKER,

“ Hearing that the Honourable House of Commons are informing themselves of public affairs, wherein, I humbly conceive, what I can say may be of use and satisfaction to them, I beseech you to do me the favour, by the means of this House, to obtain leave for me to be heard by the Honourable House.

ARLINGTON.”

Sir *Thomas Lee*.] Moves that Lord *Arlington* may be asked the same Questions with the Duke of *Buckingham*, excepting that of Monsieur *Schomberg*, being one of the articles Lord *Arlington* is accused of—Would have the rest, of which he is not accused.

Mr Secretary *Coventry*.] Hopes that the House will not vote that we shall examine him—No Member of the Lords House can answer us.

Sir *William Lewis*.] He is at his own pleasure for answering our Questions—He, by his Letter, offers information only.

Sir *Thomas Lee*.] He is judge of his own discretion ; you may ask him what you please.

Sir *Robert Carr*.] Believes, that any Question this House will ask this noble Lord, he will answer.

The Speaker.] Reminded the House of making a noise yesterday, and that we ought not particularly to salute any man, because the respects of the House are paid by the Chair ; an irregular motion when performed by any else.

Sir *Edmund Jennins*.] If you lose the opportunity of asking him Questions here, perhaps you will not see him again.

Colonel *Birch*.] Can any thing be more natural than asking of Questions ? and the Speaker has drawn Questions this way and that way, till you have come to the bottom

bottom—If he gives full Answers, you need go no farther—It was not so managed yesterday.

Sir *Charles Harbord.*] If, upon the relation he makes, you find no cause, then would have no Questions asked—You cannot examine a Peer, nor can you send for him again.

Sir *Robert Howard.*] Sees no prejudice to ask Questions—The candour of the House for him—If he has not power to answer your Questions, he will let you know it—He may not have opportunity to speak of things without your Questions; and, if he be free in point of duty to the King, and reflection; to himself, he is free.

Mr *Sacheverell.*] Would have no Questions asked him to accuse himself—Five of the Questions concern him, and he would have all these laid aside.

Sir *Thomas Lee.*] Those in the dark he would have questioned, but those in which he is concerned, and which were averred yesterday by the Duke, need not be asked him.

The Earl of *Arlington* was admitted into the House, in the same manner, in all respects, with the Duke of *Buckingham*. He then spoke to this effect: “I acknowledge the honour the House has done me in admitting me to speak here---In private conversation, and at dinners, I have met with a paper of Articles against me, in the nature of an impeachment, though upon uncertain grounds---Had I as much memory as innocence, I assure myself of all favour from this House---I have a bad memory, and so must make use of papers---I reduce the accusations to three heads. First, matter of Religion. Secondly, matter of War and Treaties. Thirdly, particular Fortune and Acquisitions I have got since the King's Restoration.

1st, For Religion. I never did one act to derogate from the Protestant Religion, neither have I heard mass, nor made any reconciliation to the Church of *Rome*---I hope you will not rest upon aspersions, unless any honourable Member will aver it on his knowledge, and, if so, I am content it should pass for a conviction---I am accused of “having a part in composing the Declaration for Liberty of Conscience.” I was present in Council when it was resolved, that, in time of war, it might be of great advantage to do any temporary thing, till the Parliament might consider of it; but, as soon as I was convinced that it was contrary to law, I was the first man that advised to desist from what was not

tenable by law---As for what concerns the Papists (*Roman Catholics*) I suppose, that, according to the function of my place, I might pen it, but it was brought to me changed to what was resolved in Council---To the charge of being "a favourer of Papists," I answer, In particular I have favoured those of the Church of *England*; but I have promiscuously obliged men of merit, without distinction of Religion.

To the 2d, "That I have promoted *Irish* Papists and Rebels, to be let into corporations and commissions of the peace, offices of trust, military and civil, &c." This is so ill imputed to me, that I was not at *London*, at the Council, but at my country house, when the order was made. Any Gentleman here, that knows the forms in this matter, can tell, that these letters are by the King's particular direction.

3. "Bringing the most violent Papists into command of companies and regiments of the King's *English* subjects, &c. and though they refused the oaths by the Act enjoined, procuring them new Commissions." It was affirmed to me, that Colonel *Panton* would take the Oaths and Test, and by his looks seemed to accept his commission accordingly---I dare pronounce that not one commission was signed by me, but for such as went into foreign parts, and were not likely to return.

4. "That I stopped prosecution of the piracy in *Ireland*, of one *Fitzpatrick*." My hand is no way seen in it, but in an order for his prosecution. A letter was sent me from the Lord Lieutenant of *Ireland*; but I gave no interruption, directly nor indirectly, to his prosecution.

5. "Entertaining and lodging in my house a Priest, contrary to the known laws, a noted Solicitor of the Popish Faction, &c." I know of none, except Father *Patrick*, that ever frequented my house, unless by chance, upon some sudden emergency.

6. "That I was the adviser to begin the war, without consent of Parliament." Whatever others may have done, few had a more positive share in hindering it than myself---There was no such thing as "constraining the Ambassadors to sign," as was alleged *. What was done was on the other side of the water, and I was sensible of all approaches of violation of the League; in this I can scarce vindicate myself without reflection on others: I cannot affirm, but will lay before you my presumptions and others in this business---*France*, to bring the Duke of *Buckingham* on their side, contrived his going over to *Paris*, on pretence of some easy coaches for the King, which he had leave for. The King warned him by no means to meddle

* See the Duke of *Buckingham's* Speech.

with affairs---The King of *France* used him well, and gave him a jewel---He counselled me about it; to requite him, I told him in what state matters lay: "I see you fast to the *Spanish* interest, if you will procure me a pension from the *Spanish* Ambassador:" The Duke took the pleasure of telling the tale, and, upon my honour, I appeal if many have not heard the Duke say, with oaths, "*Arlington* is to be turned out, and he would furnish the King with a better Secretary;" which he might easily have done. The first time the Duke discovered himself, he desired to go with a compliment into *France*, which might have been done by a more ordinary man. He had authority to sound that Court, and brought word of the *French* resolutions for war, and so magnified that King and his Ministers, that all wondered at it ---He brought accounts of resolutions of *France* for our interest, but no particulars; sometimes seriously, sometimes pleasantly. The King told me the reports. I answered, "Examine the thing, and be not guided by particular partiality." I have leave from the King for my coming hither, for the purgation of myself. I am taxed with having spoiled the treaty with *France*. Many, that I can name, present in Council, have heard the Duke say, "I am persuaded, what Lord *Arlington* says is with reflection---Either I did, or did not say, he changed the Treaty." I fear the Duke has forgot the Treaty. This *French* Treaty confirmed the Triple Alliance; the King established it in the Treaty---It is true, the progress of the war has begotten some disturbance; as the business of *Charleroy*. If *France* disturbs, this Treaty is violated---*France* was thus warned. The King of *France* asked leave for some forces to pass through *Flanders*: *Monteroi* gave him a civil denial; which being repented by the King, on the behalf of *France*, diverted the *French* King from marching. As for "the delivery of towns to us," 'tis so silly a thing, that it deserves not an answer. We have ever pressed *France* for money instead of ships. *France* had stores, but could not spare money. The King sent to compliment the King of *France* at *Dunkirk*---*Buckingham* offered himself, and treated of things unknown to me---He hoped satisfaction to wait upon so great a King, so obliging, when we approached so near the war. Ambassador *Montagu*, under the King's own hand, was commanded not to speak to the Ministers, but to the King of *France* himself---Six thousand men for the King to maintain---I pressed the King that *Montagu* might desist from that proposition---*Buckingham* was the head of them, and his officers. As to my charge of "being privately shut up with the *French* Ambassador;" my doors were not shut to him, nor the *Spanish* Ambassador; but as for "pensions," those that wrote the paper of articles should have had the

good manners to have told mine. As for "*Monsieur Schomberg's* being General of the *English*;" his mother was an *Englishwoman*, and he commanded the King's troops in *Portugal*. If he would have changed his Religion, he might have been Marshal of *France*---'Twas not strange he should be sent for to command, when a descent was intended into *Holland*, in which country he had long commanded---Though *Buckingham* is a man of wit and parts, yet his experience is little or none at all in military affairs. *Buckingham* proposed that he might go to *Utrecht*, and I be joined with him, to temper him with my slow pace. Hard by, the King of *France* staid in his camp ten days, expecting the *Holland* Deputies; neither Prince was to treat without the other---I and *Halifax* were for moderate courses; *Buckingham* was for exorbitant. As to "the Parliament's not being acquainted with the war by my means;" it was represented, that the King had money to carry it on; it was never moved, nor urged, by any, that the war should come to the Parliament. And as for our "having towns," what should we have done with them, if the King of *France* had given us half his conquests? To "the falling upon the *Smyrna* fleet before war was declared against *Holland*," I remember that my opinion was not prevalent, for I never pretended to maritime affairs; neither do I remember, that I had more concernment in it than others. "That we should be governed by a standing army." None in this House, nor out of it, abominate it more than I. I think it impossible to awe it with 20,000 men. I never heard the thing said, no, not by the Duke of *Buckingham*. It was never in debate, and we never had it in our mouths. As for "my having had extraordinary Grants from the King, &c." had I presumed to beg of the King, as others have done, I might have had more; but if I have to maintain half the dignity of my employment, I am the falsest man that lives. I never begged any thing in *England*, but "I have had ten thousand pounds out of *Ireland*." I have Lord *Bense's* estate, in *Ireland*, given me, (which I begged) which he forfeited in the Rebellion, worth a thousand pounds *per annum*. I proved I was never in Rebellion, and so I claimed his estates myself. "Engrossing all affairs into my hands." I should think myself the happiest man in the world, if I might retire from the management of affairs---Any Gentleman of honour or parts, that hath had any business with the King, I have gone with and assisted---I beg pardon for tiring the House with this abrupt paper---I doubt not but to be found an innocent man---If what I have said is applicable to any thing the House desires to be informed of, I will serve the House---I think myself safe in your hands, and lay myself at your feet."

Then

Then the Speaker desired to know, "Whether he was pleased to make answer to some Questions he had in command from the House to ask his Lordship?" Who answered, "he was willing."

Question 1. Whether any persons have, at any time, declared to him any of their advices or ill purposes against the liberties of this House, or propounded any ways to him for altering the Government; and if they did, what was that advice, and by whom?

Answer.] I cannot apply this to any discourse I have heard, either public or private.

2. By whose advice the army was raised, and Papists set to officer them?

Answer.] On account of the war there was a necessity of good officers, and the Papist officers, many of them, were represented more skilful; but cannot apply the advice to any person.

3. And that army to awe the Debates of this House?

Answer.] I can say nothing to it.

4. By whose Counsel and Ministry the Triple League was made?

Answer.] It has been suggested, by me. Sir William Temple was the fortunate man that dispatched it.

5. Who advised the first treaty with France?

Answer.] The making that League was the concurrent opinion of us all. I did not expect the French in earnest, if some blots had not happened.

6. By whose advice the Exchequer was shut up?

Answer.] You may easily believe I was passive in it---I can say but suspicions only---Many things were proposed, but I have nothing to do with the Treasury.

7. By whose advice the Declaration for liberty was made and published?

Answer.] It was a concurrent opinion, and, we thought, upon good grounds, and advisable by law; but when found contrary to law, I detested it.

8. By whose advice the Smyrna fleet was fallen upon?

Answer.] It was a concurrent advice, and I cannot apply it to any man's particular advice.

9. By whose advice the war was undertaken without advice of Parliament?

Answer.] There was all probability of peace imaginable, and it was ill to show our adversaries any ill distempers, and it was a concurrent opinion.

10. And the Parliament prorogued upon it, in November last?

Answer.] It is a hard matter to say, who was the adviser. I

protest, I know not the author of it---I may wrong persons---I have presumptions, but no evidence.

Then his Lordship, after saluting the House, withdrew*.

[Debate.]

Mr Secretary *Coventry*.] Since he had the honour to sit, sometimes the King comes to Lord *Arlington's* lodgings, and the Ambassador came with some news of importance. He has been private with him, but the *French* Ambassador never sat in council that he knows.

Mr *Howe*.] Moves to vote him innocent.

Mr *Stockdale*.] Would have no Question now of innocent or innocent, but moves for the "Fast Preachers."

Sir *Robert Howard*.] When the Déclaration passed, he happened to meet Lord *Arlington*, who asked his opinion of it, and said, "he used all his interest against it, and pray use you your's"—As for the shutting up the Exchequer, he looked upon it as a chimæra, and impracticable.

The farther Debate was adjourned to ten of the clock the next day.

Friday, January 16.

Debate on Lord *Arlington's* Charge resumed.

Sir *John Otway*, Attorney of the Dutchy.] It is for the honour of this House to acquit the innocent, as well as condemn the guilty. He has heard nothing yesterday but what is a ground to vote Lord *Arlington* innocent, and moves it.

* Lord *Arlington* spoke much better than was expected: He excused himself, but without blaming the King: And this had so good an effect, that though he, as Secretary of State, was more exposed than any other, by the many warrants and orders he had signed, yet he was acquitted, though by a small majority. But the care he took to preserve himself, and his success in it, lost him his high favour with the King, as the Duke was out of measure offended at him. So he quitted his post, and was made Lord

Chamberlain. *Burnet*.

The Author of his Life, in the *Biographia*, says, "That it was neither his speech, nor his cause, that brought him off, but the personal friendship of a noble person nearly allied to him, viz. the Earl of *Orfory*, eldest son to the Duke of *Ormond*, and then the most popular man of his quality in *England*, who stood for five days, that the Debate lasted, in the Lobby of the House of Commons *, and solicited the Members in his favour as they entered the House."

* *Carter's Life of the Duke of Ormond*, Vol. II. p. 503.

Sir

Sir *Nicholas Carew*.] Some Gentlemen are so mistaken, as you will see by and by—He wonders that the Duke of *Buckingham* had the proof of common fame only against him—Lord *Arlington* has confessed enough to condemn him—He told you of a statue that might have been erected for him, for maintaining the Triple League. Knows not by whom, unless at *Rome*—He says he had a hand in the Prorogation—The War and the Declaration, were only to introduce a standing Army, without which, Popery could not be secured—*Arlington* has told you he had a hand in all these—It is fit he should fare no better than others—Would have no root of the CABAL to grow; every little weed will grow—Desires the same Question with the Duke of *Buckingham*, and believes it will pass.

Sir *Gilbert Gerrard*.] Desires the Question may go farther than to the others. The articles will amount to more, but would have him “removed from the King’s presence.”

Sir *Charles Wheeler*.] Says still, he must speak tenderly of Lord *Arlington*, for the reasons he told you, but must go to the utmost of this matter—Would have the same vote pass, as the others had before.

Mr *Howe*.] Knows no other reason for this Lord’s banishment, but for standing in the gap against all ill Counsels, and for the Privilege of Parliament—This is a malicious prosecution (*explains himself*)—Means not by any man here, but abroad, by the Duke of *Buckingham*—Hopes we are not Prosecutors, but Judges.

Sir *Charles Wheeler*.] There is no prosecution but in this House; if any be without doors, would have it named.

Sir *Edmund Wyndham*.] *Howe* took no rise from this House, but from abroad.

Sir *Thomas Meres*.] What the Gentleman said, he said negatively, “not here,” but, affirmatively, “elsewhere”—He was yesterday of opinion that this Lord was innocent, and, it seems, is to day of the same—Will not pretend to give his opinion, but would be glad that Gentlemen of the Long Robe would speak, and consider what you shall do, if they declare it Treason; and that will be a guide to what you do—The main of the charge is, “revealing the
the

the King's secret Counsels to his Enemies," and "the Declaration."

Sir *Gilbert Gerrard.*] Would have the sense of the House, whether any confession of Lord *Arlington's* does amount to a charge?

Colonel *Robert Philips.*] He says, "he was told that the King had an inherent Right; he advised not the Declaration, nor was it his opinion."

Sir *Gilbert Gerrard.*] The Declaration giving leave to the Papists to exercise their Religion, enemies to the Protestant Religion; that gave the jealousy—The Attorney General (*Finch*) told you, "that neither he, nor the Lord Keeper, nor the Judges, ever saw it before it was published"—Desires the opinion of the House what this amounts to?

Sir *John Knight.*] The common fame was, the King's Counsels were divided—If the things alleged were done before the general pardon, you have, by that Act, already forgiven it—Says it, that you may see upon what account you now stand—The charge should be, the times when the crimes were committed; if after the pardon, then let the charge go on—Let these things be known.

Sir *Thomas Lee.*] This is a various Debate before you; it is no less than High Treason; and yet Gentlemen say, "they have no desire of blood, only desire to have him removed from the King"—He wonders at it—Read the article, and if the Gentleman cannot make it good that brought it in, let him look to it.

Sir *John Morton.*] We are far from the Question—Read the articles, and see who proves them.

Mr *Garroway.*] This article of High Treason the House will never put by, and take no cognizance of—Would proceed, as in Lord *Clarendon's* case; let them that brought it in, make it good, and then you discharge your duty, let the Act of Grace be what it will—If you come to prove the nature of the thing, consider then how far it is proved—Here is the Duke of *Buckingham's* Aye, and Lord *Arlington's* No—No man comes here to question the Pardon-Act—The Question is, whether a

CABAL

CABAL of seven, four, or five men, shall take all business into their hands, in such a conjuncture, to advise war, to the hazard of Religion, Laws, and all, and the King too; and so many honourable persons about him not employed, and they mislead the King—These are things of a high nature, and now *Arlington* would have no hand in them—But all of them were of a CABAL—Says not but things may be privately discoursed preparatorily, but the King is construed to act in *Council*, not in CABAL—Let the articles be read, and if Gentlemen will offer proof, another way, to a person, where you may have him for trial—(Removal is another thing) let any man fall as gently as he will, but must discharge his duty.

[*Sir Charles Wheeler.*] Must remember you of articles of this nature in Lord *Clarendon's* case—A Gentleman said, “I believe I can prove it; but if not, I can make it so fairly out, that you shall see no malice in it;” not being assured witnesses would stand to it—There was great presumption for it, without malice—The House consented to it, in desiring this moderate vote of removal of him to set forth only how unfit he is to be about the King.

[*Mr Powle.*] We are not yet ripe for judgment—If *Arlington* be guilty of the article of High Treason, it is death; and corresponding with the King's enemies is so too—As the article is presented, without mentioning any time, so we know not whether it was done before, or since the general pardon—All manner of Treasons are not pardoned by the Act of Grace, so that till examination of witnesses we know not; therefore would have the Gentleman that brought in the article, put upon it—It is not consistent with your justice to have one part of his censure now, and another part another day. Would have it entire before you—If there be presumptions, then 'tis necessary to examine witnesses; we cannot answer passing it by to the King, nor the nation; and he would have the Long Robe give their opinion in it.

[*Sir Richard Temple.*] To every article of Lord *Clarendon's* charge, there were two persons of the House to make it good, or who could produce persons that would;
but

but not otherwise to engage the authority of this House—But it is not for the honour of this House, in so formal a charge as this, to withdraw all the articles to make a dust, and no more—If the articles can be proved, would go on with the proof; or if not, would have the Gentleman that brought them in withdraw them.

Mr *Garroway*.] It is the Secretary's part to correspond with the King's enemies for intelligence—Pray hear that article read.

Mr *Sacheverell*.] Would have the addition to the article read, of "lending the King's stores to the *French* navy, and leaving our's empty."

Mr Attorney *North*.] The last article is Treason, "corresponding with the King's enemies"—Takes it for Treason, with the greatest aggravation that can be, he being Secretary of State.

Mr *Wilde*.] Would have information of this article for the Earl's own sake, to acquit himself.

Colonel *Strangways*.] The last article being read and declared Treason, he does not say that the Gentleman that brought in it shall prove it himself, but would know who can do it.

Sir *Thomas Lee*.] In Lord *Clarendon*'s case, he that brought in the article did say, "I undertake either to prove this article, or inform you who will prove it."

Mr *Boscarwen*.] Desires to know whether you have any precedent for beginning at the latter end of a charge.

The Speaker.] Articles containing things of a different nature you proceed on as they are presented to you.

Sir *Thomas Meres*.] In Lord *Clarendon*'s case, we called them "inducements"—That was your term of art then used—Has heard a Gentleman say, that he will prove them; has heard another Gentleman say it, that will—Here is High Treason, but go head by head, if you please.

Sir *William Lewis*.] It is most regular and agreeable to Order, that the persons that handed the charge to you prove them, one by one.

Lord

Lord Cornbury.] Would have Sir Gilbert Gerrard asked, whether Lord Arlington's Treason was done before the Act of Grace, or no.

It was rejected.

Sir Robert Carr.] The charge in Lord Clarendon's case was generally undertaken, and he would have something of that nature done now—Though himself is related to him, yet in God's name go on; and thinks Gerrard a man of so much honour, that he will make them good, and hopes there is no clause in this pardon to exempt this Lord.

Sir Thomas Lee.] Would have the articles of Treason proceeded in; for the others are of another nature, and you are to proceed in another way—"That he may be sequestered from the King's presence," if proved.

Sir Charles Harbord.] All the other accusations are drowned in this of Treason—There is an end of all the rest, therefore begin with that first.

Mr Sawyer.] Is of opinion that the Act of Pardon does not pardon the article of Treason—The person ought to be secured, not to fly your justice, therefore concurs with the first Motion.

Sir William Hickman.] If you go on to the articles of High Treason, that drowns all the rest—If you go to the Lords, if he be not pardoned in the Act of Grace, he may have one in his pocket—But are you sure that the King will pass the Bill? If he does pass it, it will be a thing of time, and we sent into the country, and no censure of misdemeanors—You may censure him, and afterwards impeach.

Sir Robert Holt.] Is not for losing time, but agrees not with that Motion; but certainly one article is the same with that of Lord Clarendon; and Mr Attorney Finch then told you, "If it was not Treason, he would advise you to make it so." If this be so, let it have its reward—But if this article be undertaken to be proved, why will you winnow a load of chaff for a handful of wheat? Therefore would go on with the article of Treason.

Lord

Lord *Cornbury*.] Would not punish crimes pardoned—This Lord has a pardon as ample as any, “for Treasons, &c. whatsoever, from the twenty-fourth of December last.”

Sir *Richard Temple*.] You can take notice of no man’s particular pardon, unless he pleads it, and you are to bring him to the shame of pleading it, and no suggestions are fit grounds for you to pass by his charge—In Lord *Clarendon*’s case, after duly examining the articles, “the Standing Army and free Quarter,” you declared no Treason, but “corresponding with the King’s enemies,” you did—If *Gerrard* has no ground for this article of Treason, he may withdraw it.

The Speaker.] Says, the accusation against the Duke of *Buckingham* was Treason.

Mr *Sacheverell*.] No private pardon pleaded in this House, to be found in your Books; and, if pleaded, whether the pardon before indicted be good in Law, he doubts.

Mr *Garroway*.] No man offered then to make any of the Duke’s articles of Treason good, (if you would have proceeded) but upon common fame.

The Speaker.] Doctor *Williams* would have proved it.

Mr *Stockdale*.] He did not impeach the Duke, though he had articles, because you denied it, and some of them he was ready to prove, though you contradicted it.

The Speaker.] 25 *Edward III.* No words Treason only by an act of this King; all treasonable words are to be informed in six months, and those words, before that statute of *Charles II.* were not Treason.

Sir *Thomas Meres*.] Words were maliciously spoken by the Duke, and two witnesses are to prove them; and then you yourself told us, that Dr. *Williams* renounced the hearing of them said by the Duke—He one witness, and therefore no Treason in the case.

Sir *Charles Harbord*.] To the same effect.

Sir *Gilbert Gerrard*.] The reason why naming persons is excused; it may be a dangerous thing to persons, who would give evidence, the Speaker not to name persons, but

but inducements. He believes the charge will be proved—A person of quality undertakes for another that will give evidence—This Lord is fit to be laid aside, for his dangerous and notorious miscarriage in his intelligence the first *Dutch* war.

Sir Robert Howard.] Matters not when it was, but let *Arlington* plead the pardon—But we have no retreat now, without exposing the honour of the House. Has as much tenderness as generosity, and, as a private person, will use it for this Lord, but not as a Member—Naming any body will not cause taking him from the King, for that way of proceeding will be greater terror than the person you take away; and from the nature of the thing, judge the hearsay—This is a heavy charge, and he that brought it in, ought, as an *Englishman*, to have spoken with the evidence—By this proceeding, we shall bring up names under an heavy character; not usual here—Starting the name of a man here, to blow him up, is as much beneath the judgment as dignity of the House—Moves for *Gerrard* to have time; if he be sufficiently satisfied with the person that proves it, he to stand up and assure it—We are engaged, and must proceed now.

Mr Secretary *Coventry*.] Because the person is not named that is to give evidence, hopes the Lord *Arlington* is innocent; but for the King's sake, and your honour, would have the thing come out—The King's person is in danger, and the Government, by this article—The King and you have nothing but Providence to rely upon for safety, if this article be so; and rather charge him, than let this article stand upon record—As dangerous a crime as can be, the King to have a Secretary of State that has betrayed him: For this Lord's Honour, and yours, proceed in it.

Mr *Hopkins*.] They have no evidence ripe, nor procured, to prove this charge; therefore moves that the article of Treason may be withdrawn.

Sir Robert Holt.] Would have the person hanged, drawn,

drawn, and quartered, rather than the article should be withdrawn.

Sir *Gilbert Gerrard*.] Moves for time till to-morrow, to give a positive account, and answer, whether he can prove that article of Treason; and moves to adjourn the House till ten of the clock to-morrow morning.

[It was adjourned accordingly.]

Occasionally, upon the Report of Mr *Papillon's* Case betwixt him and Sir *Edward Spragge* [relating to a contested Election for *Dover*.]

An old Pilot was pressed to go to sea for voting for Mr *Papillon*, who, by reason of his age and infirmities, had not been at sea a long time before, and some others were turned out.

It was answered, "that all Pilots are sworn at the *Trinity-House*, and are obliged, by their Place and Oath, to conduct the King's and Merchants ships, and they have privileges and advantages by it."

Colonel *John Stroude*, Governor of *Dover*, made his apology for some reflections upon him about using force in that Election, and it was accepted.

[*Resolved*, That Sir *Edward Spragge*, lately deceased, was not well elected; and that Mr *Papillon* is well elected for the port of *Dover*.]

Saturday, January 17.

Sir *Winston Churchill*.] Did not say, the other day, "That the Gentleman [Mr *Howe*] that informed you about the Duke of *Buckingham's* taking off the King's bridle, was not informed so," but "that that thing was not true"—Hears it repented by your Member, and desires to be justified.

Mr *Howe*.] Acknowledges himself misinformed.

Sir *Edward Dering*.] Sees you at leisure, and therefore makes bold to offer a Bill for the Repair of Churches, and the more speedy Recovery of Small Tythes.

He had leave to bring it in.

Colonel *Birch*.] Would have a Committee named to prepare it.

The

The adjourned Debate concerning Lord *Arlington* was then resumed. [Debate on the last Clause, of “traiterously corresponding with the King’s enemies, and, contrary to the trust reposed in him, giving intelligence to them.”]

Sir *Gilbert Gerrard*.] Has no design against Lord *Arlington*, but to show you that the charge in that Article is not a bare allegation; for there is a person at the door that informed him of it: But finding his evidence not ready, moves to withdraw the Article*.

Sir *Charles Wheeler*.] He has spoken with the Gentleman that informs it—As for his character, he was zealous for the King’s service in it, has been a Cavalier, and did the bravest and boldest action perhaps in all the war—This for the reputation of the man; but, he being not ready yet with his evidence, moves that the Article may be withdrawn, and that you may go on with this Lord, as you have done with the other two persons; and seconds *Gerrard* to the same purpose.

Sir *John Knight*.] Such a treasonable action as this, and the person at the door that can inform you of it,—he thinks it not fit to withdraw the Article. *Arlington* being a principal Officer of State, and the thing recorded upon your books, would have the person called in.

The Speaker.] Supposes you would have him called in, to say what he can, upon the Article of treason against Lord *Arlington*, of “traiterously corresponding with the King’s enemies, and betraying his secret counsels, contrary to the trust reposed in him.”

Captain *Paulden* was called in, and said, “he acquainted Sir *Gilbert Gerrard* with what he knew of it, and, in some time, he confidently believes he can do it more fully.” *He withdrew*.

Sir *Gilbert Gerrard*.] This Gentleman is of unspotted reputation, and what he had from him was his induce-

* No greater mistake can be made by the prosecutors of a bad Minister, than to charge him with any one Article which they cannot support with undeniable proofs. If he has it in his power to loosen any one link of the chain, he infallibly makes his escape; and, instead of being punished himself, renders odious his accusers. This was the circumstance in the case of Lord *Arlington*. *Ralph*.

ment to bring in the Article; but the proof is not yet ready, so moves you to proceed to the next Article.

Sir Richard Temple.] Moves, to Orders! be first off from this business, and adjourn the Debate till you be ready for this Article.

Mr Secretary Coventry.] It concerns your honour, as well as your justice, to proceed—It having gone without doors, you have gone so far that you cannot retreat—You must say, it is so, or not so; impeachment, or no punishment—The Witness is an honest man, and has served the King well. Believes he has spoken his thoughts, and would have him called in, to know what time he will take for his Evidence.

Sir Christopher Musgrave.] Has known the man abroad, and he is of good reputation, and would have time given him.

Lord Cornbury.] Perhaps he may take three months time—Will you stay so long, and not proceed?

[He was called in again.]

The Speaker.] *Capt. Paulden*, the House has heard a good character of you, and expects no light information.

Capt. Paulden.] The Gentleman that should prove this Article is expected every day from *France*. He was an *English* Gentleman, and lately at *Saumur* in *France*.

Sir Gilbert Gerrard.] Is so confident of this Gentleman's worth, that he has the same confidence of what he says—He hears, that there have been attempts upon the person of the Gentleman that is to come over.

Mr Secretary Coventry.] This is much worse now; you cannot now well put it off—This is too black a charge to be cast upon any man not to clear himself—Would have the Gentleman have time given him.

Sir Robert Holt.] It is before you, what time this Gentleman may come in. It is the custom of all Laws, either to produce witnesses to prove the thing, or to clear the party—If this Article be proved, you will have occasion to use your justice—Knows the reality of *Gerrard*—Witnesses are expected, it may be, in a week, and would adjourn the Debate to that time.

Sir

Sir *Henry Goodrick*.] Is but lately come into this House, and therefore it may be thought a presumption in him to say any thing—Moves “to present the thing to the King, that he may advise with his Council about it, to take what course he pleases,” that we may discharge our duty.

Mr *Garrotway*.] Would have the King acquainted with it, out of duty to him, for the care of his person, that he may know what we are doing; (though not without your leave.) In the mean while, that these Gentlemen may have time given them to bring in the evidence (but to leave it *sine die*.) Only for the present do your duty, and go on with the rest of the charge.

Sir *Nicholas Carew*.] Seconds the motion “as our duty to the King and our Country, to acquaint the King with it, for the safety of his person;” and to go on with the rest of the charge.

Sir *Thomas Meres*.] As for the Gentleman that brought in the charge, he has produced another to undertake the proof, and has gone off fair, and has fixed it upon this Captain; has brought his inducement to the Bar—Would give all help to Counsellors, and no discouragements to them—He finds on the Journal entered, “Articles of high misdemeanor, and others, on the brink of Treason;” therefore would go on to proof, with condign punishment, if not cleared.

Mr *Boscawen*.] *Paulden* tells you where the person to accuse him is—You may go on with what is on your book.

Mr Secretary *Coventry*.] Here are Articles exhibited—Will you proceed one way upon one, and another upon another? One Article, one head, “procuring Commissions to Papists as a favour to that Faction, and the other Secretary not acquainted with it.”

Sir *Charles Wheeler*.] Did never say he would “undertake to prove,” but “lay before you his knowledge”—We are debating this Earl “popishly affected”—Is just now informed, that, in *Herefordshire*, a Priest was taken, saying Mass in his Robes, and by Law committed, and se-

veral letters came to Mr *Scudamore* signed *Arlington*, to release him. The Justice answered, "he would not release him against Law:" the Priest was sent for to *London*, and never heard of more. The Member that told him is Col. *Rolle*—Goes no farther than "popishly affected." He has been asked without doors, what it is? Has answered, "one that is Papist or Protestant, as his ends prompt him to it"—Thus, would say something to what this Earl said here himself, viz. "promiscuously doing kindness to men of merit, without any nice distinction considering one or the other;" this is great ground to be "popishly affected;" one part of the Article—"By procuring Commissions to take in persons popishly affected, turned out of command by virtue of the late Act." If the book in the Secretary's Office be sent for, you will find the Commissions signed *Arlington*—He said, "he did not remember above one;" that is an uncertain Answer; but said, "that he signed Col. *Panton's* Commission, in hopes that he would afterwards comply." That is an instance out of his own mouth—Believes that there were twelve Commissions signed for *Irish* Papists, even after the Addresses and the Act against Popery.

Col. *Rolle*.] Saw such letters as are mentioned, which desired complaint to be made of the thing, but saw not Lord *Arlington's* letters; but the Gentleman is turned out of Commission of the Peace, and is now Sheriff. His name is Mr *John Scudamore*.

Sir *Robert Carr*.] *Rolle* tells you of letters—When you come to examine the thing, you will find a great mistake—He has enquired into it, but not exactly—Remembers that Lord *Arlington* did it not to the end alleged.

Mr *Westfaling*.] Such a person was taken in *Herefordshire* by Mr *Scudamore*, saying Mass; the information was given in at the Sessions, and the man left in prison—Before the Assizes, an Order was sent, and the man gone.

Sir *Robert Holt*.] Would not proceed, till you have a sight of that letter.

Sir *Charles Wheeler*.] The Article of "letting in *Irish* into walled towns and Corporations, against Law." They ought

ought not, upon any interest or concern, to have done it—
Produces a letter, signed “Arlington.”

Mr Secretary *Covenry*.] Would know whether barely signed “*Arlington*,” or as by an Order of Council?

Sir *Charles Wheeler*.] He is not only a concurrent Counsellor, but a Prime Minister of State—He did not look into the book, but the person that got them could not procure the Officer that keeps the books to counter-sign them—He has as much as he can get in the business.

Mr *Garroway*.] The books you cannot send for, but you may send to see them—If things proceed clearly, you may proceed by impeachment, or upon your own judgment, as before.

Sir *Robert Carr*.] If this was an Order of Council, then it was not the Act of this Lord’s.

Sir *Richard Temple*.] Desires, that after every head, that any Gentleman may fully express himself, Questions may be asked him.

Mr *Powle*.] If the person coming now upon his tryal and the proof, has but inducements to charge him, it is proper for *Wheeler* to go through his whole charge without interruption, and afterwards to inform ourselves upon Queries.

Lord *Cornbury*.] These misdemeanors are pardoned by the Act of Grace—Your intention, he conceives, is “to remove evil Counsellors from the King,” and an Address ordered—Supposes your intention is the same as in the former Proceedings, because of the Act of Grace.

Mr *Sacheverell*.] Moves to go to the merits of the cause, as in the method of the former persons; that if the offences were done since the Act of Grace, they may be “removed from the King’s Person.”

The Letter was read “about Papists, &c. in *Ireland*.”

Sir *Charles Wheeler*.] You see, this letter is contrary to Law, against all *non obstante*’s—He lays it at this Lord’s door, let who will bring it off—That *Irish* Act for Papists not to inhabit Corporations, &c. was made upon as

great deliberation as possible, by the Councils of both Kingdoms.

Article. "Violent Papists command *English* Subjects," &c.

Sir *Charles Wheeler*.] Several Captains, and Colonels, that command in the Army abroad, are a great discouragement to the Protestants. Makes out *Arlington's* own words of "making no nice distinction," &c. Col. *Fitzgerald* and Sir *Edward Scott*.

Article. "Openly lodged a Popish Priest, an Assister of the Popish Faction."

Sir *Charles Wheeler*.] He confessed Father *Patrick* in his house—Not a "Frequent" of Mass,—he denies it,—but in common acceptation of the words it implies that he does go to Mass—It is too much for a Protestant; it comes not high enough to justify him. He should say, "he abhors and detests the Church of *Rome*"—His procuring Pensions to Papists contrary to the late Act; cannot undertake to prove it, has only inducements—He is tender of names, but Sir *Edward Scott* and Col. *Grace*, these persons have Pensions.

Article. "Money charged upon the Revenue in *Ireland*, for several Papists, as *Fitzpatrick*, &c. at a time when he was accused of High Treason by the Lord Lieutenant."

Sir *Charles Wheeler*.] This is matter of Record, and you cannot pass it by. Lord *Arlington* did say, "*Fitzpatrick* was accused of Piracy, and complaint made of it"—The paper was thrown into the fire, but he continued to make the grant for the money—If such a sum as 10,000*l. per annum* be granted to Papists in *Ireland*, it is a great blow to the King's Quit Rents there—Very near the Revenue of one whole County is run away with by one Papist; they are reserved for a remembrance of what condition Papists were who rebelled—*Fitzpatrick* had 500*l. per annum* Quit Rents, and Col. *Grace* had some: And, which confirms all, the Papists had never been awaked in these things, but by the Declaration they are restored to liberty, and Lord *Arlington's* Counsels were concurrent—It was told *Arlington*, he says, that "it was the King's inherent Right,

Right, but when informed that it was against Law, he was against it." Here was great discontent, when that Lord was in this House, about that business, and he went out with thirty for the Proviso mentioned—It is much against his nature and disposition to do this, but in duty to God, the King, and People, and to secure Religion, he does it, and hopes every body is so sensible of it, that nothing is betwixt us and ruin but the spinning out the King's life to an extraordinary length, which God grant!—Moves to proceed with this Lord, as you have done with the others.

Sir Thomas Lee.] "That we should be remembered how we give our Votes in Parliament," thinks himself concerned—We ought not to remember what we speak, nor how we vote here—Would not have *Arlington's* going out with thirty for the Proviso, spoken of here.

Mr Powle.] As to the point of *Arlington's* Vote, would have it wholly laid aside. There may be ill instances made of such things, and it may be thought fire raked up in ashes, and it may flame out on occasion.

The Speaker.] You are not to take notice of any man, or thing, done in this House.

Mr Secretary Coventry.] Would have you proceed against the Lord, and the thing, and not have it flabbered over, but is not for removing all Officers for some you dislike—As for *Wheeler's* Assent and Consent, it is the first time he understood affection and indifference to be the same thing—He urged "that Lord *Arlington* made no nice distinction of men," &c. He speaks not as to Religion; Is not every Judge bound to do equally to Papist and Protestant, and cannot a Secretary deliver a Papist's Petition? But let it be made out that because he is a Protestant, therefore his Petition is not delivered, and a Catholic's is; charge him with unlawful things to Catholics—(When he speaks in this case for Lord *Arlington*, he speaks for himself) The *Irish* letter, &c. was an Act of Council, and Lord *Arlington* was but one man in it—If Secretary *Coventry* be commanded to write a letter, he must write a letter, but *Arlington* tells you, "he was not at the Council then, and had no share in it"—The Act says, "no Papist shall inherit,

&c. but by particular leave from the King"—The Lieutenant and Council are to consider what is convenient for Corporations—What commission is granted is not from the Secretary's but the Colonel's recommendation, who comes to the King with it, and the King signs it, and the Secretary allows it—He did not think Colonel *Panton* at that time a Papist; but when the Test came, he was no longer an Officer—There is no protestation in the Privy Council, as in the Lords House; every man is a concurrent Counsellor.—Would any man have told you, that Secretary *Coventry* should have opposed the business of tacking, or any other sea affair, that knows not the name of one rope? But Lord *Arlington* taking this to be the King's prerogative, he consented to it; but being a man that does not understand the law, and *Arlington* not being a man of the law, but concurring with men of the law, and the crime lying there, would have a formal charge against him.

Sir *Gilbert Gerrard*.] The Lord Keeper never told *Arlington*, that it was law, nor any Judges of the land, and yet he was for it—*Arlington* has embezzled the treasure of the nation, for his own private fortune—When the business of *Ireland* was legally stated, he disturbed it by his suggestions.

Sir *Thomas Meres*.] A worthy Member, not willing to make good that Article now, desires leave till *Monday* for it.

Mr *Garroway*.] If *Meres* knows him, would have him name him; but should you keep this still as a charge, it is not fair.

Sir *Gilbert Gerrard*.] Says, the Gentleman is troubled with swimnings in his head, and is not here now. It is Sir *Richard Wiseman*.

Mr *Harwood*.] Believes, or at least hopes, that no Gentleman has ill intentions against Lord *Arlington* as such, but only as dangerous to the kingdom.

Sir *Thomas Lee*.] We have been three days upon these Articles. When shall we have an end? *Monday* is for the business of pressing, which frights people, and there
Religion

Religion and Property are to be considered. Pray neglect not these weighty things—Knows not what security we have of the Gentleman's health on *Monday*, and would proceed now.

Lord Cornbury.] Would not be thought to speak upon particular animosity against Lord *Arlington*—But to the vote of “removing Counsels and Counsellors,” would go upon what *Arlington* said himself.

Sir *Thomas Littleton* interrupted him.] You have made a vote to proceed in this Impeachment head by head, and are not at liberty to proceed any other way.

Lord Cornbury.] Appeals, whether against Order—He moved you only to proceed upon what Lord *Arlington* said here himself, whom he thinks as guilty as either of the other Lords.

Sir *Richard Temple* interrupted him to Order, in the same manner as Sir *Thomas Littleton* had done.

Lord Cornbury.] You have not voted whether to proceed head by head, in the charge, or for what fell from Lord *Arlington* here—We are not upon the Question, who is fit for employment, but who unfit? *Arlington* is as guilty as either of the other Lords, and to his dull understanding it is plain—He will speak to the Declaration, but will not touch upon any thing already said—He thinks, the Declaration gave great disturbance, and cause of jealousies—*Arlington* said, “he was present at Debates, but had not drawn it, but concurred in it, as a thing prudent at that time to quiet the people, by reason of the war. The legality of it was not his profession, but he was induced to believe it the King's Prerogative by persons upon whose credit he durst have ventured his life and estate.” Probably this Lord might be thus induced to give the King that advice, but the King's learned Counsel knew nothing of it; but could not be of the opinion of any Lawyer that gave him advice, contrary to (what he could not but know) several Votes of this House, and the King's Answer to our Address, and present with the King—He must know it was not then legal; because no Lawyer could say to the contrary—His opinion was known

known to the Catholics (indecent for him to say much more, out of respect) Why were so many Papist officers employed? "He took no notice of their Religion, but proceeded indifferently." It is to be wished he had done so, but he did not—In the last *Dutch* war, there was an Address to the King for removal of Papists from command, and these very men were then put into command. This is matter of fact, and the honour of the kingdom is concerned in it—*Arlington* said, that "the Papist officers were far the more skilful men." Some did serve the King very well, and others understood not their trade till they had learned it abroad; and some young Gentlemen, that had never served the King, being then not of age, were lately perverted, and their friends Protestants—"The letter to *Ireland*" told you, that when the King offers any thing, the Secretary must sign; but observe, these pensions were by the sollicitation of Colonel *Talbot*, and though *Arlington* was then at his country house, yet *Talbot* made his addressees to him, and perhaps upon common fame—He was instrumental in protecting *Talbot*, the pretended Archbishop of *Dublin*—Has been told, that there was a time when a foreign Ambassador has not been a domestic with a Secretary of State; believes he was not with the other Secretary—Thinks he has not got so much as the charge is in *England*, but he tells you nothing of his estate in *Ireland*, and another pension during life, and ten thousand pounds out of *Ireland*, but more in *England*. Great sums of money have been charged for intelligence; since *May* last, one hundred and fifty thousand pounds, and a pension of two thousand pounds *per annum*—Does think it just, if you think the nation the worse; and upon these inducements, desires the Question of "fit, or not fit, to be removed." He thinks, from the notoriety of these reasons, he is "fit to be removed."

Sir *Gilbert Gerrard*.] Three millions of money have passed through his hands upon record. He illegally and causelessly imprisoned Mr. *Charles Muddiford*, and hopes that a person better acquainted with the thing will inform you of it.

Sir

Sir John Mallet.] He has heard of this case of Sir Thomas Muddiford's, who was long in the *Tower*, and did think to have presented it by way of Petition himself; but has had generous thoughts, not to add load, or weight, of accusation, on a person that has so much weight charged upon him already—In 1663, Sir Thomas Muddiford was Governor of *Jamaica*, and did his duty there; he improved trade ten times more considerably than it was before, as will appear by the Island's Address of thanks to the King—It was suggested to the King by Lord *Arlington*, that he was not so useful, and he procured an order to place another in his stead; and his son being a considerable man of trade, this young Gentleman was committed to the *Tower*, not for his own crime, as appears by the Warrant, but his father's. They seized all his papers and accounts, and he stood nine months committed to the *Tower*, to his great disadvantage; but all was for inspection into his father's estate, of which likewise he was to give an account; but whether by the Lieutenant of the *Tower*'s favour, or how, he was set at liberty, but remanded shortly after prisoner. About that time, his father was brought over prisoner, by a Lieutenant and two files of musqueteers, and so sent to the *Tower* close prisoner, and had no opportunity to speak with his son, where he lay a year. He told him (*Mallet*) that he was advised to move for a *habeas corpus*, but *Mallet* did not move, but a Serjeant at Law did, Serjeant *Hopkins*. The *alias Mallet* moved for—Can, if required, give a farther account of it in writing. The Knight took a *Spaniard*, that was a pirate, and, by his getting a vast estate, was, by means of the *Spanish* Ambassador, imprisoned—Several solicitors proposed to *Mallet*, if Sir Thomas would give three thousand pounds, he should be released.

Sir John Robinson, Lieutenant of the *Tower*.] Thinks that the Warrant he received for the commitment of Mr. Charles Muddiford, when he was committed to his custody, was by the King's Warrant, and so was his father's, Sir Thomas; but cannot charge his memory with it.

Mr

Mr *Sacheverell*] Would know, whether he was restrained by a verbal order.

Sir *John Robinson*.] Mr *Muddiford* had leave from him to go out of the *Tower*, but broke his word with him; but upon his Friends advice came to him again.

Sir *Thomas Lee*.] Would have you order that these Warrants of Commitment be brought you by the Lieutenant on *Monday*.

Sir *John Robinson*.] As to the person brought out of *Herefordshire* (the Priest) he had no money to maintain him, and he was discharged, but he knows not by whom.

Sir *John Monson*.] There are two others now in prison in the *Tower*, Mrs *Dawson*, and one *Overveckell*, a *Dutchman*—Would know by whose Warrant committed? Is told, by Lord *Arlington's*.

Sir *John Robinson*.] They stand committed by the King's Warrant, and according to the tenure of that Warrant he keeps them.

Lord *Cornbury*.] Moves that some of our Members may search the Warrants.

Sir *John Mallet*.]—Warrants from the King to justify Lord *Arlington*!

Colonel *Birch*.] Would search this business to the bottom—He will advise and help you, and when he does otherwise, would be told of it—Would see, by Sir *John Robinson's* books, how these prisoners are entered, and the Warrants of Commitment, (but wonders *Robinson* remembers them not) with all the circumstances relating thereto.

Sir *John Robinson*.] Receives no Warrants without entering them, and you shall see them when you please.

Mr *Swynfin*.] Never knew but that when any Member assured you, that he would bring Papers and Warrants, he was left to himself; and would have you do so now.

Mr *Sacheverell*.] It will be for the reputation of your Member, if any indirect dealing should be upon him.

Sir *Trevor Williams*.] The letters were to advise Mr *Scudamore* to bail the Priest, after he had committed him; which he said he could not do by Law.

Ordered,

Ordered, That Col. Birch, Lord St. John, Sir John Coventry, and Sir John Mallet, go with the Lieutenant of the Tower to inspect his Books of Commitments and make report.

[To proceed on *Monday*.]

Monday, January 19.

Colonel Birch reports, That, according to command of the House, he, with the rest, &c. went with the Lieutenant to the Tower, where the Lieutenant treated them with great civility, as he does all persons—They went first to dinner, and then to business; but saw the Warrants and the Books before dinner—Then he reads the Order by which they went. They saw some Warrants not mentioned in the Order, but perused them all; he supposes they were Warrants of Commitments that were debated in the House. The first Warrant in Debate before you was, “The Commitment of Charles Muddiford, Gentleman,” of which they took copies, viz.—“The body of Charles Muddiford, Gentleman, whom you are safely to keep, yet so as to have the liberty of the Tower, for matters of misdemeanor committed by his Father. By the King’s command, *Arlington*.” In the Lieutenant’s Book of Entries, the very leaf before the Entry of this Warrant is taken out, part of the stiches remaining in three places. Upon Debate, the Lieutenant called to mind another Warrant, which had some mistake in it, which he took back to Sir Joseph Williamson, and had another instead. The next was “The Commitment of Sir Thomas Muddiford,” signed above “C. Rex,” and sub-signed “*Arlington*” was, “You are to receive into your custody the body of Sir Thomas Muddiford, Baronet, lately arrived from *Jamaica*, whom you are to keep close prisoner, for several misdemeanors committed by him in *Jamaica*.” The son is discharged, and the father is on his *Habeas Corpus*—The other command of “the Commitment of Mrs Dawson, and Overveckell, the Dutchman.” That of Mrs Dawson is signed “*Arlington*, (Nov. 15.) Principal Secretary.”—“You are to take into your custody

tody *Ifabell Dawson*, for corresponding with the King's enemies." The like Warrant, and in like manner signed, for *Overvechell*. "*Daniel Van Overvechell*, for corresponding with the King's enemies"—For the person said to be a Priest, both the warrants are fixed together, and the Lieutenant has brought them for you, signed "*Trevor*, Secretary," &c.

Sir *John Robinson*.] Produces the Justice's Warrant, and the King's Warrant, for his Commitment to the *Tower*, countersigned "*Trevor*," and the same for his discharge, and a bond to be transported in ten days time, the penalty 500 l.

Sir *Trevor Williams*.] Would have the *Mittimus* and Commitment read, because he has something to present you with of matter of fact thereupon. *Mr Scudamore's Warrant was read*—It was "a Priest taken in his function in all his formalities, 1671."

Sir *John Mallet*.] The Lieutenant of the *Tower* did tell you of a former Warrant for the Commitment of *Charles Muddiford*. In his return from the *Tower*, he went to Mr *Muddiford's* lodging, and made enquiry for that Warrant, and he showed him a Warrant, with only Lord *Arlington's* hand to it, "to take the body of *Charles Muddiford*," directed to *Richard Ostler*, a Messenger, and "to seize his books of accounts," and late at night he was committed to the *Tower*—The first Warrant had only Lord *Arlington's* hand to it, and not the King's.

Sir *John Robinson*.] Cannot say that the King's hand was to the first Warrant, or not to it. Will not say the leaf was torn out, or not torn out of the Book, but is sure there was nothing in it concerning *Charles Muddiford*. The King's hand was to have been to it, the Warrant running "Trusty and well-beloved." In the Secretary's Books there was no other Warrant.

Sir *Charles Wheeler*.] It is notorious that here were two Warrants, and believes that there were two to the Lieutenant; one was some time delivered out of his hand—It is certain there was another Warrant, which mentions "Papers and Books"—He scruples the "*Charles Rex*," which

which is more suitable to the character of the rest of the letter, and some kindred to the rest of the Warrant, and is not as the King usually writes—Takes farther notice that the Warrant was some time out of the Lieutenant's hand, with an under-clerk.

[Debate on Lord *Arlington* resumed.]

Sir *Richard Wiseman*.] Has something to speak to one of the Articles against Lord *Arlington*.

Sir *John Hanner*.] To the last business—There are several other Warrants of a worse nature than this Commitment, by inferior Clerks—Would have those matters examined.

Sir *Richard Wiseman*.] Goes on—To the Article brought in of “imprisonment of Persons,” says nothing—There is another of “suborning false Witnesses and giving money to accuse,” and will produce, when occasion is for it, persons that will swear it—Thinks it not safe to name them, but will produce them when he sees occasion for it.

Article. “*Arlington* procured a Peer to be proclaimed Traytor, and Witnesses to be suborned.”

Sir *Charles Wheeler*.] Is against Witnesses, the House having not yet resolved to proceed by way of impeachment—In Lord *Clarendon*'s case, Witnesses were not called in—If there be subornation, it is remedied at Law, because he has heard the House say it, and would not take up your time.

Sir *Thomas Meres*.] Here is a fair inducement as good as in Lord *Clarendon*'s case. Let us come to one point or other—If we are to give judgment in this House, let us have our Witnesses.

Sir *Thomas Lee*.] If you call all Witnesses in here, they may be in danger, Lord *Arlington* having the King's ear, and they not being sworn—The same reason was given in Lord *Clarendon*'s case.

Sir *Gilbert Gerrard*.] Is ready to answer the third head.

Mr *Sawyer*.] You must proceed in some method, for when all this is done, you must go either upon removal, or impeachment, by what is before you.

Article.

Article. "Betrayed the trust reposed," &c. "Intercourse with the *French* Ambassador lodging in *Arlington's* house, &c. let into the King's secret Counsels."

Sir Gilbert Gerrard.] There is no example in *Christendom* for foreign Ambassadors to stay ten days, or a fortnight, in a Secretary of State's House.

Sir Thomas Meres.] If you go to judgment now, would hear the evidence; else it is a disadvantage to the evidence.

Article. "A Foreigner made General," &c.

Sir Gilbert Gerrard.] *Arlington* answers, "it was by the King's special liking." This he has heard with his own ears the King say, "none can beat the *English* but *English*;" so great was his opinion of his own subjects—What is from the unkindness of the people he thinks the King not well informed of—This his subjects must needs be troubled at, that a Foreigner must command them.

Article. "*Arlington* gave advice against Maritime Towns." The Duke of *Buckingham* told you, "*Arlington* should say, we were not to expect Towns the first year, which was against Lord *Shaftesbury's* and his advice."

Sir Thomas Littleton.] Would know whether *Gerrard* names Lord *Shaftesbury* otherwise than from the Duke of *Buckingham's* information to the House, or has any particular account from Lord *Shaftesbury*.

Article. "Eighty cables and anchors sent to the *French* fleet, and the King not any more in his stores."

Sir Gilbert Gerrard.] Does not believe any obligation of secrecy in the point, therefore craves leave to name a single Member, Mr *Pepys*, to ask him the question, whether they were delivered, or not.

Mr *Pepys.*] They were supplied with thirty-one or thirty-two cables, and about fifteen or sixteen anchors. It was done against the advice of the Commissioners of the Navy—By the King's command, he, as Secretary of the Navy, countersigned the Warrants.

Sir

Sir *Gilbert Gerrard*.] Says this only, that if “advising the Declaration” be a crime, *Arlington* has confessed it; he takes it as a ground and foundation of bringing in Popery—If the present “Alliance with *France*” be a misdemeanor, he has likewise confessed it. Besides (he would not exasperate, and wishes the thing had never been started here) you have his own confession of “keeping a Priest in his house” against Law. Perhaps Father *Patrick* was but for raillery, being a buffoon; but when he was sent away, he was rewarded with an Abbey worth 800 l. a year—Would have this Lord fall as easily as you will; but “removed from the King’s presence” as the other Lords.

Sir *Edmund Jennings*.] This is the fourth day of this Debate, and now hopes for some issue of it—The Debate now is, Whether to proceed by way of “impeachment” or “general fame.” For impeachment there is no Article proper, but the last, and that not ready—Would proceed by “general fame.”

Sir *John Trevor*.] Shall not speak upon the Article, but would say something he knows. Being with Mr Secretary *Trevor*, he did once ask him, “whether Lord *Arlington* advised the Declaration?” He answered, “Lord *Arlington* was not the principal adviser of it.”

Sir *Charles Wheeler*.] Is not of opinion that there is so great stress in the paper, wherein are mentioned treasonable crimes, &c. although the Gentleman that brought it in should make it out—It may be by the King’s allowance to do it, and the Gentleman that informed you cannot, it may be, penetrate it—This is not High Treason, but treasonable practices—We speak not to the power the King has of making the Treaty, but the great discontent it gave; but passes that over, and the rest, and moves that this Lord may be “removed from the King.”

Mr Secretary *Coventry*.] A man may call a horse a bear, or a bull, or what he pleases, but what is Treason is Treason. “Correspondency with the King’s enemies” is not Treason; we do it, and wishes we could do it more. Now the crime started against Lord *Arlington* was not pardoned (though Treasons are) but thought fit to be reserved out

of the indemnity, and will you let it pass without notice? Neither King, Lords, nor Commons pardoned it in the Act, and will you pardon it? Moves that the Gentleman that informed you of this Article may produce his Witnesses, and proceed now in it.

Sir *Robert Holt*.] The Question moved for now is the same as against the Duke of *Buckingham*; a pretty way of hanging a man with a silken halter!—As to the Article of Popery, that the *Herefordshire* Priest was removed, &c. and the Justice that committed him was turned out of Commission, has been alleged, but not averred—The letter for *Ireland*, &c. was by order from the King and Council, and signed by *Arlington*, by command—*Muddiford* was committed by the King's command—He was for the preservation of the Triple Alliance—The war was by the advice of the Council—Would not have him removed.

Sir *John Duncombe*.] Probably, when you come to examine things, this Gentleman will appear of great temper and worth. He had no concealments in his discourse here. Has, in his conversation with him, always heard him speak well of this House—He is ready to bring him to justice, but when he examines what men are, looks into their little actions, not great—When men go abroad, they are in disguise, but they lay that aside at home; no man lives more orderly than Lord *Arlington*; you are secure in that; and from thence he goes to the public—*Arlington* is said to be “a friend to popish Officers.” It is the King's goodness to us all, free access to his person—Must *Arlington* wash himself in the *Thames*, night and morning, from suspicions of Popery?—For “the standing army.” What becomes of a Secretary of State if there be a standing army. They never agree in one government. *Arlington* has ever spoken for the honour of his master, and good of his country—For “the *French* war.” A man may sometimes give evidence to the truth. Knows that the difference betwixt *Buckingham* and *Arlington* was pretty high about it—The “shaking the Triple Alliance” is laid to his charge. Lord *Clifford* said, “*Arlington* did defend himself in it to the last extremity, and that he was
an

an honest man to his King and country." *Arlington* did as great service to the nation as possible by it. Speaks this to show how dark things are in common fame; therefore would have things made clear—Can say nothing to "the Counsellors," because obliged not to do it; but every man's person is set down that sat at that Debate in Council—You are upon the darkest thing in the world, and men are lost in the counsel of them; therefore be cautious how you proceed, that your children after you may not repent it—Proceed by Impeachment, and he shall be as ready to give his vote as any man.

Mr Streete.] Regularly [there can be] no other way but Impeachment, by the Articles before you—Whilst *Arlington* was a Student at *Christ-Church* in *Oxford*, there was no suspicion upon him. Knows not how abroad; but, as *Duncombe* says, "a man will pull off his vizard at home"—Has heard that the Declaration was brought to the Council ready drawn; he told you here, he opposed it. The man that justifies it, he takes to be the author of it—Would have a Committee of a few, though ever so close, to examine it, and if a clearness of proof be then produced, you can regularly go no other way. It is not the same case with the other two Dukes, and therefore you cannot go the same way.

Sir Nicholas Carew.] The Question is, Whether Impeachment, &c. *Arlington*, by his own discourse, has voided the Act of Popery, and confessed the Declaration, &c. So some would have Impeachment, and that will be invalid and good for nothing—If you go by way of Impeachment you must never hereafter go by common fame again, for that is done by some slight artifice to prevent common fame.

Mr Swynfin.] The Question is, "Whether you will proceed, as with the other two persons, by way of Address for their removal, or whether you will go to the Lords by way of Impeachment?" Offers his thoughts, but will not give one touch upon the merits of the cause—Consider, what judicial power you have; you may be put to defend it with the Lords. That which he finds most

weighing with him, is an author that treats of judicial power, Lord *Coke*, in his *Jurisdiction of Parliament*. On the point of Judicature, he opens the whole power of Parliament: "That there is no judicial power seated in this house, is a great mistake; there is one in the Lords house without the Commons; another by the Commonalty without the Lords; and another mixed. The Lords, in all cases of Appeals from Chancery, &c. The Commons alone over their own Members, to imprison or fine any Commoner; and in Privilege many powers," but does not find any single power over any Peer and Commoner, unless to Privileges of their House. Next, is this a judicial power, or no? The Articles are of high misdemeanors, &c. and so to sentence him unfit, and address the King accordingly, because you judge him unfit, and therefore desire the King to put him away; this is a high judicial act—To say "this is no removing him from his freehold;"—it is his freehold and peerage; how can he be a Member of either House, and have a right to sit, and you remove him? If any *Englishman's* or denizon's right be taken, the higher the quality the greater the injury. It is the privilege of any person to come to the King—You cannot proceed alone; he reads it, nor observes it in any practice—Where have you ever proceeded to judgment by common fame? It will disable you for ever from going by way of Impeachment, if this way misses, and so disputes will arise betwixt the Lords and you.

Sir *Thomas Lee*.] Never understands judicial power in this House claimed, as a Court, of right and justice, and as different from a petition to the King; it is his opinion in all cases, where he can be regular, to do it. "These Articles have proofs," they say—Would never go to the King when the person may go to the Lords—Agrees that common fame is no ground of judgment—These Articles, if they must be on your book, must be proved to you as inducements to impeach; if true, you will have judgment of the Lords, if proved, and then the person is removed of course—Whenever the King will
remove

remove any officer about him, it is not against Law for him to do what he will—Moves to send up the Impeachment to the Lords.

Mr *Swynfin*.] If you carry up these Articles to the Lords, they are then your Articles, and not the Gentleman's that brought them in.

Sir *Cha. Wheeler*.] Has not heard any man say that the crimes were not committed since the last general Pardon—Why shall not this Parliament be a precedent to future Parliaments, as well as former Parliaments to this? Doubts not but the proceedings are as fair in this as have been in any other case whatsoever—Lord *Arlington* avowed many things in his discourse here—The *French* might have fallen upon *Amsterdam* and taken their ships, and so have been masters at sea.

Mr *Finch* *.] Differs from *Wheeler*—Consider what he moves—Heavy things!—*Arlington* “popishly affected!”—He challenges all mankind to prove him present at any rites of the Church of *Rome*. By his preferring Papists and Protestants promiscuously, he might as logically conclude “Protestants as well as Papists”—“Favouring them in *Ireland*, by letting them into corporations.” He signed the letter *virtute officii*; it was an Act of Council, where he had not a concurrent voice; nor was present. The aggravation of his fault in the Declaration against his own knowledge, not Law—But *Arlington* is not accused to have penned one syllable of it, and 'tis laid upon a person dead (which fault charity covers)—He was the first that advised cancelling it—“The war.” He thought there was money from *France*, and in the Treasury, for the service of the nation, and so no need of calling

* Son to the Lord Keeper. He succeeded to the Earldom of *Nottingham* on his father's death in 1682, as he did to that of *Winchelsea* in 1729, a few months before he died. In the reigns of King *William* and Queen *Anne* he was Secretary of State, and in King *George* the First's, Lord President of the Council. *Burnet*, speaking of his

conduct at the Revolution, says, “That he had great credit with the whole Church party, for he was a man possessed with their notions, and was grave and virtuous in the course of his life. He had some knowledge of the Law, and of the Records of Parliament, and was a copious Speaker.” He was father to the present Earl of *Winchelsea*.

the Parliament—"To govern by an army." No Prince that ever governed by an army but was ruined by an army; an instance near us, in *Cromwell*—"Popish officers." *Arlington* has not one friend an officer in the whole army—For having "opposed the King's having land towns," gives you reasons, because he would have no army—"Monsieur *Schomberg*," a fit man to command an army to be sent abroad; and he commanded the *English* in *Portugal* during a session of this Parliament, and was not complained of then—"Procured a Lord to be proclaimed traitor by order of Council"—*Arlington* did no more than what any Justice of Peace may do—"His acquisitions"—no more than to support his dignity. If *Arlington* must answer for all the faults of offices and officers, you may then proceed against him—Gentlemen say nothing of their own knowledge, nor [bring] one witness to prove; the case is without proof, and ought to be *scandalum allegatum & probatum*. We must proceed as a grand inquest, and if guilty of such crimes, then address the King to remove him—If this be the way to remove officers without fault, all offices will be given for life; and so there is a freehold in them and it may be tried, and then you never can punish to any purpose upon common fame—Is there no more of the King's Council but Lord *Arlington*? and is it his crime to be in ill company? When he heard the Duke of *Buckingham*, he could not but conclude *Arlington* peccant; but when he heard *Arlington* vindicate himself, he thought them upon equal terms, and nothing from either of them to ground removal. If a man can give no natural reason of an effect, he will say it is witchcraft; and because you know not mysteries of state, must you lay the fault upon *Arlington*? Let not your first censure be excommunication—Moves, that, as you have begun in severity, so you would end in clemency, and not make this man a sole example.

[Sir *John Mounson*.] The Law makes others more incapable for preferment, and yet *Arlington* made them equal, Protestant and Papist—By *Finch's* consequence, no need of a Parliament but to give money—By *Finch's*

Finch's argument, *Arlington* thought them both equal, and would proceed therefore equally with *Arlington*, in removing him with the rest of the Lords.

Mr *Finch*.] Said only, "for raising of money, at that time, there was no need of the meeting of the Parliament."

Lord *Cornbury*.] Keep to the Question; you have made no order yet; you may go to the Lords with it for their concurrence, and then the whole matter is before them, but if not that way—No entry upon your books of enquiry after proofs, in the Duke of *Buckingham's* case, but upon the fame of the wickedness of the man—*Lauderdale's* case was otherwise; you had the averment of your Members—Moves for the Question, whether you will now proceed by way either "of Impeachment" or "common Fame."

Mr *Powle*.] Every man that has a charge may bring his defence; if he be charged in a Court without jurisdiction, the Law makes it defamation rather than accusation; otherwise the charge remains to all posterity, and no possible way to bring him to tryal before the world—For "common Fame." Would impeach forward to greater things, but never backward to less things than what before you—If no proceedings, *eat sine die*. If you will not proceed, you say, in effect, he is not guilty—"His granting and procuring commissions and money given to Catholics since the Act against Popery, Priest in his house, and subornation of witnesses to destroy a great Peer"—It is expressly against your pardon, and done by one near the King's ear, which may reach us all—Moves to refer the Articles to a Committee, to hear what proofs, and hopes you will then pass such a censure upon him as he deserves, and from him then you shall have no less than against the rest.

Sir *Robert Howard*.] Do you not depend upon Lord *Arlington* to accuse Lord *Arlington*, catching at flying words that fell from him, and making them fresh foundations of a charge, and wrap up all the greater in the lesser?—Thinks he spoke ingenuously in all his answers—

Those that first defamed our government by piracy, *Muddiford*, &c. were turned out for that piracy—As for the motion made by Lord *Cornbury*, there will be fair time for people to resort to it, and would see clearly into this business; your Member may have his witnesses ready, they may have farther information—After such a charge, the nation must see the bottom of it, and impeach him.

Sir *Joseph Tredenham*.] Does not think that an *English* hand should carve *Arlington's* statue (in his speech) for making the Triple Alliance, nor the Parliament erect it; if any, it must be from *Rome*—This great Lord was told, that the Declaration was legal, but were either the Judges, or the King's Counsel, consulted? The martial Law, and Popery, might be as necessary as the Declaration. Now he is up, will reflect upon some other things; his being “popishly affected;” he has reason to believe so, by his countenancing Father *Patrick*—He knows, that to harbour a Priest, knowing him to be so, by 27 *Eliz.* is Felony—He seemed to wear a fool's coat, but under that he carried on his master's interest, the Pope, and finding himself discovered he ran away—No person is too great for an impeachment of this House. Nothing but favour can bring Papists above Protestants—He acknowledges his concurrence with others for prorogation of the Parliament; the Exchequer full, and enough to carry on the war, but not to pay the King's debts—The breaking the Triple Alliance was the true reason for putting off the Parliament; another reason he told you, “he knew not how well the Parliament was inclined to this peace.” The Parliament was thought always best to advise and redress, but now laid aside, and a corner in this Lord's chamber thought more fit than the advice of this House—Consider what end we have in our enquiry, either to justify or condemn, and who but the author? We have liberty to discuss things thus, and from hence, it may be, date our future happiness, and let us now make it appear that regulation, and not passion, governs the House; and moves that you will deal with Lord *Arlington* as with the Dukes.

Mr

Mr *Henry Seymour* *.] What Lord *Arlington's* heart is he knows not, but he has received the Communion with him since the Act against Popery came out.

Mr *Neale*.] If he be guilty, remove him, or hang him, which you will—Tells the story of *Pacilius*. “If all the Senators be like him, clap them all up.”—Then they would remove them one by one. “But pray,” says another, “consider who shall be in his room.” When any one was offered, “Oh! he is a rogue and a rascal;” and so of many others that were offered. At last, he counsels them thus, “Let them all alone till you can find others to supply their place.” Applies the story—Would have *Arlington* “impeached and tried.”

Mr *Garroway*.] Agrees with neither of the proposals; they go too fast. *Arlington's* accusation, in your book, is of a high nature; and you only proceed to an Address to the King “for his removal.” Some are for “Impeachment,” grounded upon the Articles—If by an Address, *Arlington* will stand upon your books as acquitted of them.

Sir *George Downing*.] Let him stand or fall, as he shall appear. Several have aggravated his crimes with circumstances, and yet are for the Address to the King. Should not your proceedings be higher? A man may be indicted for murder, and all murder, and we therefore pray his ears may be cut off; but to aggravate the crimes, and not proceed upon them, agrees not with reason. If they were extenuated, it is reasonable; but he stands not as the other Lords before you. Articles against him are entered, and you vote him “not fit to come into the King's presence,” and you are adjourned or prorogued without farther proceedings; here are you on record the most partial people in the world—Here is a precedent against you, his “betraying Counsels,” “suborning witnesses,” and the House of Commons pray the King to remove him, and he keeps his offices of freehold still;—can this be honourable for you, the grand Inquest of the kingdom?

* Fifth son to Sir *Edward Seymour*, and brother to the Speaker. He died in 1727.

Why must you do this? Because the Gentleman has a pardon! you must try him. No pardon hinders proceedings of justice. After sentence, then possibly a pardon is pleadable, but then, and not before. This is such a continuance of a pardon, that never let it be said, nor admitted here—God forbid that men should not be accused by common fame, but not condemned! Lord *Arlington*, an old Cavalier, who served the King, was with him abroad, was never suspected to be a villain, and now must be sequestered from the King upon common fame of suborning witnesses, &c. Did common fame ever say such a cruel thing as nature abhors? “Betrayed the King’s Counsels,” &c. when the King was in all his miseries and low [state] abroad, did he do this? Moves for the Question.

Sir *Nicholas Carew*.] His taking out a pardon since *March* last, after the general pardon, is the thing—If you have not proof of the Articles, it is not for your honour to proceed in them—Moves this Question to reconcile all, “whether the House will go on with the Articles.”

The Speaker.] The Articles are not entered into the Journal, only into the Journal-book, which the Clerk writes at the table.

Mr Secretary *Coventry*.] Reads the exceptions out of the last general Pardon of forgery, perjury, &c. You cannot answer it to God and the world if you impeach him not.

Lord *Cornbury*.] Where was the honour of the House, when Lord *Orrery* was accused of High Treason, and upon your Journal it is dismissed to proceedings at Law *? It is evident, that upon your first vote of Grievances, he [Lord *Arlington*] is as fit to be removed as the rest.

Sir *Robert Howard*.] The members accusing have so much fluck to this Question, that it makes him suspect they have not evidence. The Articles are entered into your day-book—If Impeachment goes on, you must have evidence at the Committee; it may be, then other

* See Vol. i. p. 201.

witneſſes may come to induce you to do then what you are about now, the removal of this Lord—As we muſt love juſtice, ſo it muſt not be ſlow juſtice ; the liberty of all ſubjects is infringed, if a man be deeply charged, as this Lord is, and you ſmother and bury it without proceeding—Let them not ſay, we ſuſpected our Members and proceeded not—Have evidence for ground, and ſo proceed.

Mr *Sacheverell*.] Wonders that his removal ſhould be a Queſtion ; he finds no reaſon for Impeachment; though he has attended for it. The Articles are of two ſorts, criminal and capital ; it is ſtrange now we ſhould be concerned for proof for things, which he has confeſſed, of “ criminal” matters, and we doubtful of the “ capital,” and yet impeach—Proof is never ſought againſt a priſoner when he has confeſſed the fact—“ Prorogation at the beginning of the war”—He told you, they were informed from the Treafury, “ that there was money ſufficient to carry on the war.” It ſeems it was agreed by the COUNCIL, as long as they had money, no Parliament; and had they any, we had not been here now. It is a dangerous thing to have a great ſum of money *there*, and hopes that will be remembered. “ He was but one, and joined with the reſt;” therefore begin with him, and in time with the reſt; and would have the Queſtion upon him now.

Mr Secretary *Coventry*.] Upon what fell from Lord *Arlington*, when he was here, “ that he concurred, in Council, for the Declaration, and *French Alliance*,” &c.—they are things done long ago (a year and half ſince) and not complained of, and the general pardon ſince. Wonders, when you knew and complained of all theſe things, you ſhould paſs a pardon—It is no extraordinary thing for a maſter to part with an old ſervant, and to aſk a reaſon for it ; but, becauſe you will accelerate a buſineſs, will you go without doing it?—Let his tongue be out, if ever he ſpeaks for him, or any man, that had a hand in breaking the Triple Alliance—Is not *France* leſs, and *Holland* leſs, than it was ? Have they not conſumed
men

men and treasure, which you have not? But for a man that advises never to advise more, you will leave the King to be his own Counsellor—Approbation of it was in Parliament, but made before the Lord Keeper's speech—For money, *Arlington* put it off to those that dealt in it; but, upon the whole, he is against a censure so severe as this.

Sir Thomas Meres.] Whatever the Clerk reads on the table is entered in the Journal—It was voted, “head by head,” and not in the Journal; no precedent of it; he finds it very fatal for Lords to come here—If a prisoner confesses the fact, before arraignment, he may be charged with it, though he may deny it, at arraignment—It does not look so very generous, when persons discourage are taken advantage of—We are not like ever to have Impeachment, unless proofs go on. To go to charge without any proof! Would any Member of this House be content, if only charging him by an eloquent tongue? No answer to proof; yet, would any man be so judged? Here are certainly right and property taken from him; can any thing be a harder judgment? Will you petition what you yourselves think not reasonable? He said the other day, “that the House did but rarely proceed upon common fame, and if you had such a power, it was the Prerogative of the House, and would have it seldom used”—No Minister of State, be he ever so wise, ever so good, but will offend somebody able to speak against him, and lies in great danger; such a terror as this may discourage him in his place—If you are satisfied to draw this sharp sword, begs it may be very sparingly used.

Mr Harwood.] Nothing can be farther said, that has not been said twenty times over—Matters of religion were never so till now—As for Lord *Arlington*, he has known him long, but never mistrusted him, for matters of religion; twenty-nine years since in *France*, but now he is in *England*, and has great influence upon great men—As for Father *Patrick's* conversation in Court, it has been too much: believes few Papists are gone out of town since the Proclamation, and some say they will not stir—

We

We must go a great deal farther yet than we have done—
“ Money in the Exchequer, and therefore we prorogued”
—He cannot forget that—This of “ Removal” is no
judgment, and hopes *Arlington* will never come to that.

Lord *Obrien*.] When this is over, you shall hear of other
Lords and persons charged with the business of *Ireland*.

Sir *Thomas Lee*.] Is always for particular matter,
when it is to be had; now from what has been said,
thinks this Lord “ fit to be removed”—“ An offensive
war,” in which all the King’s subjects are concerned,
“ without consent in Parliament!” It is forgotten, how
wasted we are in the country; it is forgotten, how near
the *French* were to have been masters of the *Dutch* ships
at *Amsterdam*, and the loss of so many of our men—
Those that advised the offensive war, and that without
Parliament, induce his vote in the affirmative, for such
a Counsellor “ to be removed.”

[The House divided, whether candles should be brought in or
not, and it being carried in the negative [197 to 97] the Debate
was adjourned to the next day.]

Tuesday, January 20.

Mr *Sacheverell*.] Complains of disorders in the *Newark*
Election, and has a Petition from the Freemen there, and
proper to be presented, when you come to the business
of the Election—By pretence of general words in the Act,
and by colour of some clauses, there is money raised on
the subjects, and not warrantable; the Justices would
not levy that money, and then to awe them, a printed
order was sent them, with pretence of the Judges opinion:
This done, they have gathered the money, to the great pre-
judice of the subject—Moves to have the Act explained,
in the point of recognizances for Alehouses, by a Bill.

Sir *Robert Carr*.] Some Members belonging to the
Treasury not being here, desires the business may be
waived till they come.

Sir *Henry Puckering*.] Moves that Smiths forges may
be considered in the same Bill.

Sir *John Duncombe*.] Would willingly have the clause,
for the recognizances for Licences of Alehouses, cleared.

The

The Treasury has suspended several processes in Law; in this business, in most countries, no scruple is made of it—As for that of Smiths, they are as able to pay for their hearths, and they have as good a livelihood, as most persons in a town.

Mr *Powle*.] Judgment was given in *Yorkshire* against the Smiths and other Forges, not upon the merits of the cause, but for a defect in pleading.

A Bill was ordered for them both*.

[Debate on Lord *Arlington* resumed.]

Mr *Hall*.] It is now high time to come to a Question about Lord *Arlington*; you have heard yesterday what can be said in the business.

Mr *Howe*.] Is against the Question moved for—You have the Articles of Treason against Lord *Arlington*, and would proceed by way of “Impeachment.”

Sir *Francis Drake*.] It is now the fifth day we have been upon this business, and these Gentlemen will run over all again, and make it the fifth hence; therefore would proceed “to address the King for his removal.”

Sir *Nicholas Carew*.] It is not for the honour of the House to do what they cannot make good—The Witnesses are not ready, but in *France*—You may proceed to the charge of Treason afterwards.

Colonel *Strangeways*.] “Impeachment” or “Address to the King” is before you. Is glad to see the House so tender of Religion (that includes property and all) and obliged to part with goods and life for it, but would rather have ten nocents escape, than one innocent man put out of the ways and means of justifying himself—The author of the Declaration, if known, deserves the highest censure imaginable; for a few number of persons to have extracted all the wisdom and power of the nation! We entered into a war, but where was the advantage? The *French* got towns, and prospered strangely, and what got we? Neither port nor town. Would not charge any man without *probabilem causam litigandi*. *Arlington* said,

* No mention is made of this in the Journal.

“ he concurred, but not to the Article of Popery ”—That Prince is unhappy that has Counsellors that do not oppose ill advice—Sir *John Duncombe* must be vindicated; he had the courage to oppose the Declaration—Whether read in Council, or his opinion called for—*Arlington* is said only to be a Minister, and that he executed orders of Council. In all this business, instead of others bearing the blame, the fault is fixed on the King, and the King not to blame. The King's Grants are many, and you ought to punish the persons that pass the Seals—In all acts of honour, you reflect upon the King and he has the praise; the faults are his Ministers, not his orders; but “ the Commissioners of the Admiralty shall not grant stores for the *French*.” Does the King understand all the navy-affairs? No one man can—He sat here when Lord *Strafford* was accused upon common fame, and believes there was nothing—The House had leave to examine Counsellors then, and all *Strafford*'s friends; but at last had recourse to Impeachment, which, though long, is the surest way—*Arlington*'s Articles may be taken *pro confesso*, but for the main Articles of Treason, no Witnesses ready—If you go upon Impeachment, and the persons that brought the Articles in have no evidence, the reflection is upon the persons that brought them in—Suppose we should desire his removal, and the Lords the contrary; and then is the proper time to show reasons. And now put what Question you please.

Lord *Cornbury*.] Proceedings would be unequal, if not as with the other Lords. Here it is said, Should not a man defend himself? Will any man tell him that *Arlington* does desire to be cleared that he was not in those Counsels? *Lauderdale* was charged with such words, and was the ground of your vote—Was any thing said that *Buckingham* was guilty of that advice? *Arlington* tells you, “ he has met with a paper of Articles against him, and from thence induced to believe a charge against him,” and appeals what any man means by doing his country right? It is certain men's minds are uneasy, and do expect redress in Parliament—Does believe it
the

the intent of some men to alter the Government—Appeals to you, what effect the Declaration had—Did not that do it? Appeals to men's minds about Property; the very ploughmen debated these things. Your discontents are still as great, and will you leave us in the hands of those very men that have done these things? He is one of those that are of opinion that you cannot do any thing till these things are redressed—"Because *Arlington* confesses these things, therefore it is the less evidence against him," is very strange—Will not enlarge on his Religion, but he might have made distinction betwixt Protestants and Papists—He had so great a hand in all these things, that there seems much more against him, than either of the rest—*Buckingham* proposed the Alliance with *France*, but *Arlington* promoted it—Six thousand men were sent into *France*, and commanded by persons obnoxious—Had there been money to have carried on the war, *Arlington* would have done it without Parliament—Begg, that, if one be impeached, all may; and all things to stop till finished, and though there are great affairs before you, yet all to stand still till these things be redressed.

Mr *Boscawen*.] Shall not extenuate, nor aggravate, the charge against this Lord—Can any man show precedents of impeaching a man in the House of Commons, out of kindness? The regular way is for the Question "whether to proceed upon these Articles as a ground of Impeachment." The summary way is the quickest way, but whether more honourable? One, that vindicated the Civil Law, said, "it was much more summary than the Common Law. It would dispatch six causes in a morning." The Common Law was tedious, but the safer way; white powder kills and makes no report, and this is such a way—He would keep up the dignity of Parliament, as well as serve our present turn—Should the king ever take into his Counsels any of those persons you have desired should be removed, would not that make great discontent in the nation?

Sir *Robert Southwell*.] Is of opinion to wave this way of proceeding. Is for committing the Articles, in order

to an Impeachment—Thinks this House persuaded of his Religion by his passing all the Tests; many conclude a suspicion upon what fell from him here—*Arlington* told you, “he was borne down in the Declaration by the authority of a great person, whose judgment he had a great value for, but, when otherwise convinced, was the earliest man that persuaded the recall of it.” Has heard that thing imputed to Lord *Clifford*, who declared himself the Author of it, and the sole Author, and did declare he could maintain every word, syllable, and letter of it, to be Law; but was of a better mind, he hopes, before he died—It is hard that the living must answer for the dead!—The entertaining Father *Patrick* in his house was a demonstration of his disrespect and aversion to the Church of *Rome*. Had any man of learning been with him of that Church, it had been something; but *Patrick* was a man of levity, that followed him merely for his hospitality, and much wine, and, it may be, had not legs sometimes to go away—These are articles of faith, as *things unseen*, rather than evidence—Would have the Articles committed.

Sir *Robert Howard*.] Moves for a previous Question.

Sir *William Coventry*.] Has sat still these four days, and not without reason—Thinks the King and Nation concerned—Thinks it the greatest of the fears of the nation, not without reason—Is it intended to leave these miscarriages at the King’s door? No; leave all things clear there—The Lord Keeper said, in his Speech, “that the greatest thing upon us, was to set the King right with his people;” and he thinks it of greater concern than haply Lord *Arlington*’s being nocent or innocent—“Impeachment” is a perfect mistake, and no way with your Honour; no end should be without fruit: What will you impeach upon?—For having proposed the Alliance and the War, and that done before the Act of Grace?—It was never a good time when the subject has been for breaking and infringing Pardons, and therefore would not do it now—It is but a reasonable and just thing for men of business to be composed, in their minds, by ge-

neral Pardons. It may be, witnesses, to clear such a one, are absent or dead—Put the case, that those things concerning the war, &c. are pardoned (which he would not have you infringe) consider that it is an Act of Grace, and not of Oblivion; and whether those men are like to produce better times, if still continued, leaves it to consideration—These are matters of charge, not Articles, till your House has made them so. Though in Scriveners shops called and writ so, they are no Articles—They are capital, and not capital; they are relating to “the embezzling the Treasury; revealing the King’s secrets, &c. and subornation of perjury”—Distinguish between crimes pardoned and not pardoned; “subornation” is not pardoned—The Act of Grace says, “all treasons are pardoned, but such as are against the King’s person;” but nothing is said in this matter—A Gentleman said “it was before the last *Dutch* war, and so pardoned;” but “subornation” is the only thing we can go to the Lords with, by way of impeachment: The consequence, if impeached, is, the Lords can proceed on nothing else; and then, *Arlington* being not found guilty of that, and no prosecution any other way, (the Act of Grace excluding all this,) you will lose the advantage of *Arlington*’s own confession—Wonders to hear the advice of “impeachment;” the evidence seeming to shrink, is to bring dishonour to the House—Will it not be a great oversight for us to bring matters to the Lords that we cannot proceed upon? The Commons expect to be secured only for the future from such counsels—Will you proceed on the charge of “subornation of witnesses?” No; it is on things this Lord has confessed—Shall we punish nobody here, but such as have first invented treason and felonies? It may be answered, “in another world they may be punished”—Upon the whole matter, would have your Question put for “an Address to the King.”

Sir Robert Howard.] *Taking exception at being misrecited by Coventry—*

Sir William Coventry.] Would not fail, in matter of candour,

candour, to any man; especially to *Howard*—Asks his pardon if he misplaced his words.

Mr *Swynfin*.] Will not speak to the Articles, nor merit of the case; but what Question will you put? Would not have a Question foreign to the Articles, but close to them. The Question offered is perfectly foreign; the Arguments, offered by *Coventry*, suppose a Bill; and you consider whether you will go to the Lords: But determine what you will do with the Articles; first clear your hands some way of them—"No fruit of impeachment, because the crimes are pardoned." He fully agrees in the conclusion on these premises; but to say, you would have persons impeached that have the benefit of pardons,—as men of great employments will have pardons, that their hearts may be at rest. If you bring "the war," &c. bring that as an allegation—Then it will be known what opinion you have of the war—They that manage the war, will help to make an end of it—As for the King, it is thought this summary way is best for him; the more public way of proceeding is best for the King; you go to the King with nothing but a bare desire; if the King removes him not, it tends not to your end; if he does, upon bare desire, without cause shown, it is hard; therefore would avoid all this—It would be a Question, upon what Article? There are a great many. The King then would see your reasons, and all people have satisfaction.

Mr *Powle*.] Whatever you do against *Arlington*, would have you just and regular—How to dispose of the Articles, or whether to lay them aside or no, is not free, till determined—It is to prejudge a man before tryal; to whip a man, and then try him for murder—Many Gentlemen conclude *Arlington* by his confession here; it is hard to turn the ingenuity of a man upon him. It consists not with the honour of the House; but if you will make use of his confession, his words ought to be taken and stated, to avoid wresting them to another sense—"That he deserved a statue." He said, "he thought he might deserve a statue for preserving of *Flanders*." [That of the statue mistaken]

mistaken] If you impeach, it is in his choice; he may wave the Act of Grace, if he pleases. If he pleads the Act, it will confirm you in your judgments to proceed for "Removal."

Sir *Henry Capel.*] Has known *Arlington* long, but could never find his way of living other than with prudence, decency, and sobriety; this got the belief he has of him. Those that know him, say, he does things freely, and like a Gentleman—He is no way obliged to him—If he has been at the head of these things, let him go, let him fall; "but if not at the first formation of these monsters, still the executive part was put upon *Arlington*"—Why? "The Ambassadors were at his house." But he has reason to know he was not at the head of these things. *Arlington* was the first comer into the Triple Alliance; he will not take one grain from *Buckingham* in it, but *Arlington* was instrumental; but yet, if you think fit to have this person punished, then consider to square his crimes with the Lords that went before him—*Buckingham* a Counsellor, *Arlington* a Ministerial Officer—Consider him, when concurring only with the Declaration—Consider his morals, and how he has behaved himself for his parts and courage, and here, in the House, in an undisturbed motion—Some say his own confession is his condemnation; but as a Gentleman should speak the whole truth, hopes we shall not make this use of it—The Judges have a rule to go by; we have none; we may mould and shape things according to reason; he will never judge this man for any word he has said here—Says it before God and you, proceed by Impeachment, and he will give his affirmative; but upon the other Question, his negative—If this be the way of your proceeding, consider the consequence,

Sir *John Holland.*] Must bear witness for *Arlington* in what he knows. *August* was twelvemonth he visited *Arlington*. Being come to his house in the country, about seven miles from him, he thought himself obliged, in good manners, to visit him; and did then crave leave to ask his Lordship a question; we being engaged in a war, he desired

desired to know the reason of the prorogation of the Parliament. *Arlington* made answer, "That we were engaged in a Treaty of peace, and hoped then for an issue of it; should the Parliament meet in *October*, in case the House should have refused or hesitated in it, the hopes of the Treaty would have been lost. Betwixt that and *February*, doubted not but peace or war would be; he hoped, if peace, the House of Commons would be gratified; if war, money, he hoped, would be granted to support it." He then told *Arlington*, "He feared he took not a good measure of the House, and these arguments of war would fail, especially in his own county (*Norfolk*) that is so poor. The Duke of *Buckingham* and Lord *Clifford* looked guilty, as the Promoters of the war, and if ill consequences did arise, accounts might be called for." He (*Arlington*) replied, "I thank you for it, and do take it as an evidence of your kindness. I will promote peace all I can"—He heard from *London*, soon after, that the CABAL was divided, whether the Parliament should meet, be dissolved, or prorogued. The Chancellor's, *Arlington's*, and *Ormond's* counsels prevailed for sitting. He told *Arlington*, "He was glad to know that he was for continuation of the Parliament." *Arlington* replied, "He wondered how his advice in Council should be made public;" but said, "he ever was, and ever should be, of opinion, that we are never happy but when the King and Parliament agree." A person, that has these things planted in him, cannot be dangerous—He thought it his duty to acquaint the House with this.

[Mr Secretary *Coventry*.] Our country looks not after "suborning of Witnesses," but things of greater moment—In the Impeachment, he will be proved to have suborned two Witnesses against a Peer—Will you ever think such a man fit to be near the King? And so you may have the thing done by a Court of Justice. If the Lords tell you, "he is pardoned," there is an end—Upon the total, here are Articles, and they are named

Articles, and the House is possessed of them ; therefore would proceed by " Impeachment."

Colonel *Birch*.] He has abundance of kindness for this noble person ; he sat yesterday striving betwixt his duty and his kindness—If we must answer for any thing (as some think we shall not) we must answer for a kingdom that we are entrusted with—*Gerrard*, who delivered the Articles, told you, " his memory was short and the evidence not ready," and removal is the Question, but other uses are made of it—Some are against this way of Address ; and why ? Three hundred years ago, in *Henry VIth's* time, there was removal, and we were never willing to part with this till now, and not excepted against—The effects of the CABAL these ten years are now manifest—If imagined a weak man, haply (*Arlington*) would have done these things harmlessly—He ever said, the Declaration would lull all the fanatics of *England* asleep, and Popery would wake with them—As for favour to the fanatics, he wonders at it ; they outwent him—Had he thought Lord *Clifford* a Papist, or a favourer of them, would not have had a hand in saving him—For one thong he cut for the Presbyterians, he cut ten for the Papists, and long ones too—Is at a stand at one thing, we have had bad luck for some years ; looks upon squanderers of money as the greatest enemies of the nation ; and whoever makes government heavy to the people, is neither a friend to the King nor them—We have spent, in these seven years, more than two hundred years before—Twenty thousand pounds is now a minute thing, now in a few years. In those times money was in people's purses, and consequently in the King's—The course we are in has wearied the kingdom of all ordinary ways of raising money—We were in a tale of a Triple League (which we paid for dear) but in the middle of it was the *French Alliance* ; and " be sure effectually to break the King's credit, and he shall be forced to do the thing designed"—The Exchequer credit must be broken, and now our Government is looked upon to signify little ; whilst this was doing the Parliament must be prorogued—God delivered you, not
the

the wisdom of this House—Had *France* seized *Amsterdam*, you had not been debating here now—He never heard a reason why the *French* King went not on then, unless the greatness of his neighbourhood might be apprehended, &c. The *French* then, at the Treaty with the *Dutch*, were against us, and yet not one word proved, some say; but he can say, that when the *French* were in Treaty, before our Ambassador came over, we must not take that advantage to treat by ourselves—The main design is broken, but, by means of the war and alliance, *France* has more tonnage and guns than we have, which before they had not, nor skill nor strength to use them—Queen *Elizabeth* was great by being head of the Protestants, but we must join with the King of *France*, after his breaking down churches; and above all, we must join in an Article of “Popish Religion in every conquered town”—All these things went through Lord *Arlington*’s hands; and shall we continue the game in the same hands? Can any man think that you intend to go through with your first vote, if you “address not the King for his removal?”

Mr *Garroway*.] It is his duty to clear *Clifford*, his dead friend, of what has been said against him—True, something will remain upon your books—Gentlemen despond as to the Articles, and so no Impeachment; but is certain, when things come to be proved, the King will not keep such a person about him—Would have the first Question put, “Whether there be matter in the Articles to ground an Impeachment upon?”

Sir *Charles Harbord*.] Is of *Garroway*’s mind, that it is unbecoming to speak ill of the dead—The paper brought in has on the top of it, “Articles of Impeachment;” he thinks it brought in as a charge. If such things are brought against a Peer, you must debate “Whether to retain the Articles, or no, as an Impeachment?”

Sir *William Hickman*.] Will you leave the thing, and not say from whom the advice came?—There has not only been a rumour, but *vox populi*, that this Lord was of the CABAL—Rather opposition than concurrence should have been in these Counsels—Is for seldom using

this power of common fame, but is for using it now, and would have the same Question put as was for the other Lords.

Sir Thomas Littleton.] Conceives that "removal" ought not to be the Question; the rule is, what is natural to the Debate to be the Question; but when foreign to the matter, out of doors—The Articles were read, head by head, and this Question is quite wide from the mark—The Question is proper, some way or other, how to dispose of these Articles, whether they contain matter of Impeachment.

Sir Nicholas Carew.] *Littleton* moves a Question out of all question, about the "Articles." The other of "removal" is of four days Debate; so long that Question has been.

Sir Thomas Littleton.] Does acknowledge he found the Articles entered into your Book, and has heard, by a Question from you, that you would proceed, head by head. Now he understands the Articles are laid aside, acknowledges he spoke wrong before,

Sir John Mounson.] No man is questioned for these things, if pardoned; he would not give example to break the pardon—This is the easiest way of redress—*Arlington* monopolizes all; this man is of the King's Council—This Standing Army begot all our Grievances—This, not a single act but a habit; it makes a man remarkable; the Triple League, &c. and *England* but accessory, not principal—Believes *Arlington* not a Papist, because a Papist would not do so weak a thing as to go by himself in their business—Moves for "Address."

Mr Sacheverell.] The main Article ready for proof will be only "subornation of perjury," and, by 5 of *Elizabeth*, it is but forty shillings fine, half to the informer; and may not the Lords say, "what have you to do to proceed upon differences betwixt our Members?" Moves for "an Address for removal," there being no matter of weight yet for "an Impeachment."

The Question being put, That an Address be presented to his Majesty to remove the Earl of *Arlington* from all his Employ-
ments

ments that are held during his Majesty's pleasure, and from his Majesty's Presence and Councils for ever; it passed in the negative, 166 to 127.

Resolved, That the Articles be referred to a Committee, and that they report what matter is therein contained, and can be proved, that is fit for an Impeachment.

Wednesday, January 21.

[A Bill to prevent unjust Vexations by suits of Law, was read the second time.]

Sir *Thomas Lee*.] This Bill is of damages; its purport is, that when the damage is but forty shillings, Counsel and Attorney it may be get twenty shillings; now it is provided, that poor men shall not be vexatious, neither would he have poor men undone and put upon the parish by new charges—This of *Certiorari* is for tryal of causes; *Habeas Corpus* for commitments.

[The Bill was ordered to be committed.]

Sir *William Coventry*: Upon a Motion for a Bill for the more speedy conviction of Papists, and a farther Test for officers, &c.] Some parts of this Bill will stick with the Lords, in matters of privilege betwixt them and you—Would have a general Test, in one Bill by itself, betwixt Papist and Protestant—In many places, the Justices of Peace dispute how often they are to take it on renewing their commissions, and doubts of the Members and Commissioners for the tax—When once you have made the Test, then in another Bill you may declare who are obliged to take it, and the penalties.

Sir *Thomas Meres*.] The Parliament is the legislative power and fountain of the Law; the Courts of *Westminster* are the executive powers—Would have those fountains purged.

[A Committee was ordered to be appointed to prepare a Bill.]

Lord *Cavendish* delivers a Petition from several masters of ships, who were pressed and their seamen, contrary to Law, to the great hindrance of their voyages. The Petition was read as follows:

follows: "That the Petitioners have been ready to serve the King, but Officers and Gunners have been pressed from their respective charges as well as common men; and lately the persons of your Petitioners have been pressed as common men, and some taken from their ships and charges—Praying a remedy."

Mr *Wright*.] Knows several that have been so dealt with at *Wapping*, &c.

The Petitioners were called in and avowed their Petition, and one showed a ticket whereby he was pressed.

Sir *John Ernly*.] When the Duke was last going out, complaint was made of concealments; the press-masters were sent for, and unless they brought in their number, they were to be pressed themselves.

Mr *Pepys*, a Commissioner of the Navy.] If it is proved that one Master, one Boatswain, one Gunner, &c. that made it appear he was a man chargeable with stores, or accounts, [has been pressed,] he will be answerable for it himself.

Mr *Sacheverell*.] Pressing is not, by Law, "taking by force," but "upon hire."

Mr *Pepys*.] If the course be altered that has been, time out of mind, in pressing, no fleet can be set out.

Sir *William Thompson*.] This is of great concernment to Liberty and Commerce—But in such a violent manner to take men from their occasions, murders and tumults do follow, and it reflects on the King, that no persons will serve him without being pulled and hauled by compulsion—Merchant ships are ready for their voyage, and their men are pressed from them, and they lie two months for want of men!—In foreign parts, though they press none, yet they want no men, because they are well paid and well used, with some advance money.

Mr Attorney *North**.] The abuse is fit to be examined; he will only speak to the glance given at the Law. It was never doubtful but that the King, upon an actual Invasion, might press, but there is a discretion in all

* Sir Francis North succeeded Lord Keeper Finch in this post.

things.

things. Though the King may compell people, yet when they take Press-money, they are within a capital law for running away.

Sir *Thomas Lee*.] The Attorney tells you, "that it is for the "defence" of the kingdom, not for "offence" to our neighbours." As for the abuse, it ought to be enquired into; but for *Pepys's* telling you, "that they were discharged, if appeared to be charged with stores, or accounts, and not willing to serve," that is not all: They have been pressed by land, and hopes that the Laws concerning pressing may be stated, and then you may declare your opinion; but is sorry that the King's name is always used in these things.

Mr *Love*.] Has known Captain *Morgan*, in the *Mediterranean*, long: He and others were pressed, till they could find two men a-piece, and were not discharged without money.

Mr *Child*.] Is glad to hear that so few have been oppressed. He has conversed all his time with seafaring men; knows of hundreds of masters of ships, &c. that have been pressed, and desired to come up to adjust matters with their Owners, and were not permitted by Sir *Thomas Allen*, but under a hundred pound bond, to return. They said, "being made Press-masters, they wore swords to defend themselves from the Rabble"—Agrees for referring it to a Committee.

Mr *Pepys*.] Whatever the consequence be, will ever bear about him speaking of Truth—Says it still, and will be accountable, if any master of a ship, &c. ever made complaint to the Navy-Board or Admiralty-Board, wherever complaint has been made of pressing, that man has been discharged—Press-masters and Captains themselves have been cashiered for irregularities in pressing—It cost the King twenty thousand pounds in mere advance-money, before the men went to sea—The Victual-masters have been constrained to press to carry victuals to the *Buoy of the Nore*, though a harmless and blowless employment.

Sir

Sir *Eliab Harvey*.] Merchants' trust Masters of ships with sometimes forty thousand pounds value, and they are pressed, and not suffered to come up to complain, but clapped aboard, and carried away, and so they must hire strangers ships to carry **their** goods, to the value of two hundred and sixty thousand pounds in freight, and your ships lie by the walls—Desires remedy in this.

Sir *Thomas Meres*.] There is great backwardness in this sea-service, and all faults are laid upon the King—Observes these things by the way.

Sir *Richard Temple*.] Ships stay sometimes several months for want of men, being pressed after their voyage is finished, and sometimes are scarce able to bring their ships into port, and all is laid upon the King's back.

Mr *Sawyer*.] Will say nothing to the "necessity" of pressing men; the "legality is only within his sphere; unless in *peine forte et dure*, knows no other sense in which the law uses the word "pressed;" but all statutes call it Prest-money, and "Imprest" is an Exchequer term: Imprest account of money delivered out to any particular use; a soldier or Captain that took such money is said to be pressed, and soldiers either for sea or land, the law distinguishes not—"Tenure" extends only to land services, as the marches of *Wales*, or the borders of *Scotland*—Whenever the King made war, he agreed with certain Captains, by Indenture, for so many men; in the Exchequer there are multitudes of them, betwixt the King and the Captains, the Captains and particular men. In the Exchequer Register Book, Register 91—"Certificate, being contracted in *committiva* with the Admiral." It appears, the sea affairs were under the same contract with the land—18 *Henry VI.* cap. 18 Penalty there, after contract, if the soldier shall leave the Captain, or the soldier be not paid by the Captain, severely punished—Then in *Henry VII's* time, where they contracted with the King's Commissioners, not the Captain, there is the penalty if they shall depart; but now that the Captain should pay them is a mistake; they are not obliged to pay them, unless
in

in case of invasion, as in 1588—The necessity of the time may justify it—In a war, “without advice of Parliament,” it is a voluntary thing, and that voluntary way of going to war the law prescribes—They extend the Statute of *Henry VI.* to the marches of *Wales*, and borders of *Scotland*—If the party will refuse his “pressed money,” he is not liable to any of those Statutes—The power of the Militia alters not the manner of doing it; that is no consequence to press and carry men beyond the seas. If an action be brought against a man about pressing, the necessity excuses it in point of law; but who must be judge of that necessity? Thinks some course necessary to be taken in it, for the good of the nation.

Mr *Sacheverell.*] The Statute of *Charles I.* for pressing men for *Ireland*, plainly tells you, the King has no such power, by the passing that Statute, but as specially given him.

[The Petition was referred to a Committee.]

Thursday, January 22.

Upon the first reading the Bill for uniting several Parishes in *Exeter*, that Bill importing an imposition upon the subject, and in effect repealing a Law in being, and leave having not been asked to bring it in, it was withdrawn; and leave asked and obtained to bring in another Bill.

Debate on the regulating the Elections of Members of Parliament.

Sir *Robert Howard.*] The expences of Elections are grown so vast, that it goes beyond all bounds, the charges considered in the country and here.

Mr *Garroway.*] It is dangerous for a man to be thrown out for his hospitality in the country—These charges arise commonly from Competitors that live in another country—They must be undone by out-doing him that comes from another country, with indirect intentions.

Mr *Swynfin.*] Some carry Elections by awe and force, and some by ability to expend. Unless you do it to some effect, it takes up your time, and the thing will never be practicable

licable—By the effect he observes of sumptuary Laws, he believes you will have the same effect of this,—none at all, but for an Informer to get by it, and no man else. The examples of the King and Court would have more effect than any Law you can make, and when you find Elections carried thus, and quash them here, that may remedy something. You having as good a Law now, which does no good, therefore would forbear a helpless Law as this is.

Serjeant *Sey.*] The penalty of a Sheriff, for a false Return, is but one hundred pound; and in the spending one thousand five hundred pound, the Sheriff may be well gratified, by the party returned, for his fine.

Mr *Boscawen.*] The person elected ought to be resident in the borough or county for which he is chosen, by the statute, but that is antiquated and out of practice; but if you restrain it to persons resident in the country, to be chosen in boroughs, or that have estates in that country, you may do well; though the old statute is really a law, but out of practice—And this may cure all the evils.

Mr *Waller.*] Let us mend our proceedings here, and we shall mend Elections—Times are much changed now. Formerly the neighbourhood desired him to serve; there was a dinner, and so an end; but now it is a kind of an empire. Some hundred years ago some boroughs sent not; they could get none to serve; but, now it is in fashion and a fine thing, they are revived. Some Bishops and Lords for their poverty have been excused—It comes by custom; there is no appeal from us, and we judge Elections with impunity, and what we should take most care of we take least.

A Bill was ordered in for regulating Elections.

Sir *Thomas Meres.*] Now the business of regulating Elections is over, methinks it is like a man very sick that makes new cloaths, or furbishes old ones; therefore, in the next place, would have you consider the present state of the nation, &c.

Mr *Powle.*] Amongst the rest, would consider the
business

business of the foreign war, that hangs over our heads, like a comet, threatening destruction ; therefore would have the present state of the kingdom, relating to the war, stated.

Sir *Thomas Clarges.*] Would not have it confined to the “ war ;” it may introduce “ money ;” would have that as the Extreme Unction, and have *Saturday* for our “ Grievances.”

Sir *Thomas Lee.*] Is not afraid to talk of the “ war,” for that is the bottom of all our “ Grievances ;” all these thoughts and talks of Popery are from it, and would have the “ Grievances” considered that we lie under by reason of the “ war.”

Resolved, That the House will, on *Saturday* next, consider the state and condition of the nation, and the Grievances occasioned by reason of the war.

Colonel *Birch.*] The danger is not of jumping into “ money” so soon—Is not afraid of that, because we were prorogued, and no need, he thinks, of “ money.” To the end we may have field-room enough, consider the “ state of the nation by reason of the war,” that we may not be told of it, and bear the blame, if we should be assaulted by the *Dutch*.

Friday, January 23.

Leave was asked for bringing in a Bill for an imposition upon coals for the better paving of the streets.

Sir *Adam Brown.*] The neighbouring counties of *Hertford* and *Surry* would not have it extend to such coals as shall be spent in those counties who are to subsist by that coal, those counties being serviceable to the city in bringing them provisions.

Mr *Jones.*] The city desires no more than such an imposition as may enable them to go on with the great work of building the Churches, and the wharfs, and pavements, now undertaken.

Sir *Nicholas Carew.*] The ornaments of the city are unnecessary ; he would not have either painting of the

the faces or painting of the city, but would have the tradesmen enjoined to return again into the city who are planted in this part of the town.

Sir Charles Harbord.] Would raise a tax for this purpose, but never lay it upon Coals.

Sir Nicholas Ford.] Assures you, he was present in Common Council when the Sheriffs were ordered to attend the Speaker. In answer to *Carew's* objection, that act of Common Council is the act of the city only.

[A Committee was ordered to bring in a Bill, for paving and maintaining the streets of the city of *London*, and enabling the city to perfect and go through with the rebuilding of the Churches, and other public works.]

Sir William Coventry.] Likes not a tax nine years hence. Moves, that hearing that trade comes hither, and that houses stand empty in the city (believes them empty, and will be more) that there may be a restraint of buildings here; it will better the houses in the city, and those here—Would have a Committee appointed to consider what is fit to be done in this business.

Serjeant Maynard.] This building is the ruin of the Gentry, and ruin of Religion, having so many thousand people without Churches to go to—This enlarging of *London* makes it filled with lacqueys and pages; therefore in the Bill would prevent the design of enlarging either the city or places adjacent, which else will ruin the nation.

Sir William Coventry.] Would not have a beauty and uniformity in the city, and a deformity in the King's Court. He has no houses, nor intends to build any; (it is not his interest:) He finds that parenthesis sometimes very necessary in this House. The great houses of the Bishops and Nobility, and all are put into small tenements. That which is your aim is, to suppress the great number of small houses for private profit, there being scarce any new built for a Nobleman's or Ambassador's use. Such a thing may be by restraining the roofs to so many feet high, which will not turn to account for tradesmen to inhabit, and may be useful for the Nobility and Ambassadors.

Sir

Sir *Thomas Littleton*.] An Address to the King, "That no Licences be granted," may comprehend all Gentlemen's opinions.

Sir *John Duncombe*.] At this end of the town whole fields go into buildings, and are turned into alehouses filled with necessitous people; and should a sickness come, all the Gentry would go away and they would be left a burden to the parish—The Council sends forbiddances, and the man has laid his foundation, and where is the Law to restrain it? The Lords of the Council cannot remedy it. To stop this, confine them to build such an height, twelve feet high, and four rooms on a floor—Refer it to a Committee, and let them judge what places are fit to build in, and so proportioned, and that will stop the increase of buildings.

Sir *Thomas Clarges*.] They may build in ancient boroughs, by the Law.—27 *Elizabeth* it is prohibited "within ten miles of the city of *London*, and not converting great houses into tenements, and for building of great houses;" but that Act was to last but seven years—An Alderman showed him a Bill to this purpose, which would provide against these Grievances.

Mr *Garroway*.] It is worth the honour of the House to have these immense buildings suppressed. The country wants tenants, and here are four hundred soldiers that keep alehouses, and take them of the Brewers, and now they are come to be *Prætorian* guards—That Churches have not been proportionable to houses, has occasioned the growth of Popery and Atheism, and put true Religion out of the land—The city of *London* would not admit rare artists, as Painters and Carvers, into freedom; and it is their own fault that they have driven trade out of *London* into this end of the town, and filled the great houses with shops.

Mr *Sawyer*.] Recommend these buildings to the Committee, and you must make it a nuisance.

[It was referred to the same Committee to bring in a Bill for restraining any farther new buildings in all places within the Bills of Mortality, except the city of *London* and liberties thereof.]

A Bill for relief of persons imprisoned by writs of *Habeas Corpus* was read the second time.

Sir *Thomas Clarges*.] Would have men committed to legal prisons, and the Statute of 37 *Edward III*, "of suggestions," revived. The suggestion must be signed by the accuser, and left with the Secretary of State; and if the suggestion be not proved, to undergo the penalties that the person accused might, &c. that so a man may know his accuser—It has been often complained, of late, that Ministers of State impose upon his Majesty to sign Warrants of Commitment, and the subject can have no remedy, and the Ministers say, "it is his Majesty's Warrant;" a thing very indecent, and unfit to be done!

Mr *Garroway*.] Men to be carried prisoners out of the land, is illegal—Would not have so many things in the Bill, to overload and sink the ship.

Colonel *Birch*.] The manner of commitment must be subsigned by somebody. Unless that be provided for, the main scope of the Bill is voided.

[The Bill was ordered to be committed.]

Saturday, January 24.

The King in a Speech informed the Houses, "That the States-General had sent him a letter by the *Spanish* Ambassador, offering him some terms of Peace, upon conditions formerly drawn up, and in a more decent style than before. Upon this he desired their speedy advice and assistance, and doubted not but they would take care of his honour, and the honour and safety of the nation."

[Debate.]

Sir *Eliab Harvey*.] This is a thing of great consequence, and he would adjourn the consideration of it till *Monday* morning.

Sir *Henry Capel*.] As most things are to be considered comparatively, so this with the war.—Moves for *Monday*.

Colonel *Birch*.] If not for the King's honour and safety, would advise; but to adjourn till *Monday*, upon we know not what—He cannot imagine any advice that we can give on *Monday* morning more than now, having
nothing

nothing to advise upon; and would know what these proposals are, before we adjourn.

Sir *Robert Carr*.] Secretary *Coventry* is not come, and had he been well, you would have been acquainted with the particulars the King mentions.

Mr Secretary *Coventry* at last came, and said,] The propositions from the States of *Holland* to the King were accompanied with a Memorial from the King of *Spain*, (which he presents to be read.)

The Speaker.] Says, he will read the States letter to the King, if the House please; though it is not usual for him to do so, but proper for the Clerk.

[The Speaker read it accordingly, as also the *Spanish* Ambassador's Memorial.]

Mr Secretary *Coventry*.] The case now is altered from the Treaty of the *French* camp; no cautionary towns, and as nigh a breach as ever we were—They tell you of “pressing the men from *Surinam* with good freight;” but who shall be judge of what is good freight? They tell you not. It would be worth your thoughts in it—“Money for Licences.” When Lord *Northumberland* was Admiral, the Articles were as these now before you—They must be otherwise worded, or you cannot ground upon them.

Colonel *Birch*.] Would know something more before we adjourn till *Monday*—From *Edward* the III^d's time, “freedom of fishing by Law.” Desires, that the “Licences for fishing” may be known, whether for the States General or for particular persons uses?

Mr *Garroway*.] Hopes Gentlemen will consider what they do. Here are copies of the Articles to advise upon, and we had no hand in advising the war; (we allow the power of Peace and War always in the King.) Desires, at present, that we may not enter into the Debate before we have transcripts of them, some of them relating to other Treaties, in the dark as much as any thing else, (Country Gentlemen knowing nothing of them.) Then we may come to the determination of this matter—Moves to ad-

journal till *Monday*—Is right in the King's power of Peace and War, and the King, by this communicating, does not resign that authority—Licences in 1 *Charles*, when Lord *Northumberland* was Admiral. We never did as the King of *Denmark* does in the *Sound*, when under a contribution to *Holland*—*Amsterdam* gave Licences; *Holland* could not give Licences to their subjects to fish here.

Sir *George Carteret*.] Has seen *Trump* in *Dunkirk*, who always struck his flag. Has been in the narrow seas alone, and met two States men of war, that struck—When he transported Lord *Doncaster* into *Germany* he had no flag, only on the main-top-sail: *Trump* struck then. Lord *Northumberland* made every bus pay so much, the States men of war present, several years, and believes the money was returned into the Exchequer *.

Colonel *Birch*.] Some have kept correspondence with the *Dutch*, and having heard Secretary *Conventry* say he was versed in the *Dutch* paper, as others have been, he went to good honest counsel, who informed him of what he knows of the fishing, and other things.

Sir *William Coventry*.] If we should not be for Peace, we should not please the persons we represent. Wishes nothing may come to us about it. It is proper for the *Dutch* to seek for it, and not we; and, for the fishing, would avoid any disquisitions about it—Touches this by the way to consider the nicety and importance of the thing, that we may consider of it till *Monday*.

Sir *Robert Howard*.] Knows not what they mean by the “*British* seas;” it is a doubtful interpretation, as they make it, and he would adjourn.

Mr *Garroway*.] Would have no Order as to the papers, but let them tacitly lie upon your table, and those that will may take copies.

Sir *Thomas Lee*.] Rare example of entering any letters into your Journal, but the King's! The Journals are as public to every comer as to your Members—Let it be

* This was in 1636. The *Dutch* agreed to give the King thirty thousand pounds, for leave to fish that summer, which was paid accordingly.

on your table, for the present, and afterwards resolve what you will do with it.

Mr *Powle*.] 2 *Henry V.* the league betwixt us and the King of the *Romans* was entered on the Rolls; but though that was, every thing is not to be entered. Letters and Petitions are not entered—Would not do any thing to preclude our right to the fishing—Would leave the consideration of it till *Monday*.

Sir *Thomas Meres*.] This is not the first time the House of Commons has been consulted about Peace and War; but would not have these entered till farther consideration, and is for *Monday*.

[The Debate was adjourned accordingly.]

Monday, January 26.

Mr *Sacheverell* presents a Petition from Mr *Charles Muddiford**. In *May 1671* he was sent prisoner to the *Tower*, for crimes done by his father; on condition of fifty guineas promised he was delivered, and the next day set at liberty by Sir *John Robinson*, [Lieutenant of the *Tower*.]

The Speaker.] It is an Order, and the right of a Member, not to have a Petition presented against him, unless he be here to answer for himself.

Sir *Thomas Lee*.] If the Member be not here, then the Petition can never be presented against him, but he ought to acquaint the Member.

Mr *Sacheverell*.] He has acquainted the Member with the Petition; and now do with it as you see cause—Upon your Member's invitation to drink a glass of wine with him, he detained him prisoner.

Sir *John Robinson*.] Has been almost fourteen years Lieutenant of the *Tower*, and this is the first Petition against him—*Muddiford* has used malice as well as ingratitude towards him—Will give the House a true account of the business. *Charles Muddiford* pretended that he had a grandmother lay dying at *Chiswick*, and his going to her might be three hundred pounds in his way.

* See p. 301.

Robinson told him he had not yet paid his fees, and would not give him a discharge—He went to Lord *Arlington*, who said he durst not go to the King about it; but the King said, “Let him go for three or four days.” When he came home, he found him at an officer’s of his, and said, he would not be without leave for five hundred pounds. *Robinson* told him he had no discharge, but he might stay till sent for again. The King told *Robinson* he should be discharged when a new Governor was sent to *Jamaica*—*Robinson* has seven witnesses to prove that *Muddiford* said, he would return whenever sent for by *Robinson*; but though he sent several letters to him to return, he answered none of them, and he could never see him; but *Muddiford* went to solicit his own discharge. *Arlington* reproved *Robinson* for enlarging him. *Robinson* said, he was not discharged, and desired a warrant to take him again. Soon after, *Muddiford* came to the *Tower*, and some company being with *Robinson* in the hall, *Muddiford* sat some time and drank with them, but suddenly slipped out and went away. Another time he came into the *Tower*, and then *Robinson* apprehended him, and kept him till he got his warrant for discharge. ’Tis two years and two months since he was out, and, upon the whole, he did not expect such a Petition against him; and will make good all this he has said, and more.

Col. *Strangways*.] Sir *Thomas Muddiford* told him, when he went to see him in the *Tower*, “That he was much troubled that his son had broken his parole with *Robinson*, having been very civilly used.”

Mr *Sacheverell*.] Thinks it hard, when *Muddiford* has undertaken to prove the Petition, not to appoint him a day, as well as for the reputation of your Member, *Robinson*.

Sir *John Robinson*.] Moves to have the privilege of a Member to have his hearing in the House.

Sir *Thomas Lee*.] If the money was for a fee, lawful; but if as to obtain his liberty, not justifiable. Would hear it in the House.

Sir *Thomas Meres*.] What rate will the business of the

the nation be at, if postponed to hear this in the House? Would have it committed.

Col. *Strangways.*] It is not a long business, but of short issue, and will quickly be ended—Would have it heard at the Bar.

Resolved, That this business be heard on *Saturday* next in the House.

[Debate on the King's Speech resumed.]

Mr Secretary *Coventry.*] Consider, before you leave the Chair, what you will proceed upon to make Debate of. There must come objections, as well as answers, and of great prejudice to the Crown. Whether, whatever right the King has to what he claims of the *Dutch*, the Articles are to be accepted at this time?

Mr *Garroway.*] The reason for going into a Grand Committee, is the darkness of the thing, for more free Debate. *Coventry* said, the last day, we must not go hastily into things. If this be not before us, knows not what is before us—If free and no restrictions, would know the bottom. If any new instructions in the thing to *Coventry*, would know only whether it be *Coventry's* private opinion or instructions.

Earl of *Ogle.*] We are obliged to consider it, not turned into a Committee, but in the House, as more reverent to the King.

Mr *Sacheverell.*] Since *Coventry's* Motion, is in more doubt than before—It is not clearly before the House to give advice whether to make Peace with the *Dutch*, or no; not clear, whether the King craves advice in a joint, or separate Peace, and so opinion not the same—If fairly to consider the King's Speech, and what offered by the *Dutch*, that states the case one way; the fishery not in them: But if by the *Spanish* Ambassador's Memorial, that states the case another way—Can say nothing till we know whether the King means a "joint," or "separate Peace." Cannot proceed, unless we know which.

Sir *John Coventry.*] The *French* League is so infamous, that we cannot name it without odium; therefore seconds *Sacheverell's* Motion.

Sir *Thomas Clarges*.] It is clear that the King intends a "separate Peace"—"Has received something more suitable to him than before." The King shews mutual confidence. He says not, he has sent to *Cologne*, but he will advise with the Parliament—It is clear to him, that there is nothing before us but treating at home with you, therefore would have no more sending to the King, but would proceed.

Sir *Thomas Lee*.] It is no hard thing, when the King asks your advice, that you know what you advise him. This treaty is but a project, and must be sent to *Cologne* to be confirmed there, and then it must be a joint Peace. As soon as it is concluded that the Parliament of *England* hath consented to them as terms, it may be some help to the Ministers that made the war, but none at all to you, nor the King, and would have the thing cleared.

Sir *William Coventry*.] Would not perplex the hopes of Peace for new objections. If so uncertain, it is proper to send to the *Dutch*—The King cannot satisfy you; it may be as large against the *French* King as any man, but what have you to lead you to believe so? These proposals are handed to you by the *Spanish* Ambassador, and can any man believe that the *Spanish* Ambassador would make a good and advantageous Peace for *France*? Enough to imply what the King's intention is of complying—The King's disadvantage will be yours—Would you have the King declare, that he has abandoned and actually resolved to break the *French* League, before he is certainly fixed in another? The consequence will be, the *Dutch* know your aversion to *France*, and if any advantage in a syllable can be taken by any Amendments, they have the King at a good lock, and *France* will be absolved from what they have done, and you show they have them more at mercy than we have them—The opinion of the *French* Alliance will seem for their sakes, not ours—If the King stick by way of Amendment, the *French* will run to them with all offers of Peace—The farther this is opened, the worse it is, and sees not the advantage—

He

He thinks it can be no other than a "separate" Treaty, and would proceed to the rest of the King's Speech.

Mr *Stockdale*.] We are not now about Articles of Peace—It is not proper for us to meddle with it.

Mr *Garroway*.] If we have Peace, hopes it will be a sudden Peace—If we come to declare it here, we shall never have opportunity to mend it—In answer to that, if the *Dutch* could make Peace with *France*, you ought never to have taken notice of it—There will not want Agents for *France* in our Court—All the danger is from thence—No man loves *Holland*, but for interest, nor hates *France*, but as contrary to the *English* genius—If that shall endanger our liberties and laws, if *France* be at liberty, and not engaged, what good will the Peace do? *France* has armies and ships, and no place to vent their malice upon but *England*.

Sir *Robert Howard*.] The arguments we contend upon are suppositions, and not grounds—The King recommends to you not the negotiation in general, but the Articles for your advice; and we say, "What is your meaning, Sir, separate Peace, or no?" When there is not a word of the *French* in them, and handed to you by the *Spanish* Ambassador—The King farther tells you particulars, and "desires speedy advice, whether they be terms fit to be embraced, or deficient"—Was ever a plainer question? The *Spanish* Ambassador to be one of the Guarantees—The King believes nothing in them against his honour, nor the preservation of the nation—The King tells you, "he will embrace your advice." You are not confined to any thing but "speedy advice"—Therefore lay no obstacle, but go on.

Mr *Waller*.] The business of the day is the King's Speech—Some Gentlemen have touched upon papers. "The separate Peace." He shall confine himself to that—*Plenus rimarum*—Our sense will come out from us, as well as the Lord Keeper's Speech—We spoke of *France* as our enemy, and *Holland* as one with us, and the same religion—We may easily have Peace of those men, and wonders the Articles are so well—The King has done what

what he never saw before ; he has communicated Articles, asked your advice, and made you, in effect, judges of them—Amongst the *Romans*, *Manlius Capitolinus's* heart was too great for his brain, and he would be King above all the Senate—"Why do you make the people parties ? Make them judges !" and they followed him—See what it is to make the people judges, and not parties—We shall remember our honour and interest. Their labours and their Alliances have made *Holland* and *France* rich and great—If thieves are robbing your house, and you call up your neighbours, and go to bed yourself, will they help you again ? Never to stand to our Allies, nor think of them, is not for the honour of the nation.

Sir *Thomas Meres*.] The *French* did neither perform their part at sea nor land, and lastly an Article, "the *French* not to break with *Spain* ;" they have broken that Article with us and *Spain*, so that altogether, Alliance is to be with the interest of the nation—They are offered to us here as terms of "separate" Peace ; you debate and intend them as a "separate" Peace, he hopes.

Sir *Charles Harbord*.] Is not for sending to the King ; and the Peace is of great use as proffered—Moves for a Grand Committee.

Sir *Thomas Littleton*.] Before the Speaker leaves the Chair, would have some previous considerations—Here is vast difference, when he considers—No aversion now to a *Frenchman*, more than formerly to a *Spaniard*, on account of their greatness—By this separate Peace you secure all those fears ; and should all these armies of *France* be at leisure, we should be in more apprehensions than ever—Considering the *French* infractions of Treaties, there is no danger now of speaking out—Desires so far to clear himself, as not to go upon presumptions, but to know the whole matter.

Mr Secretary *Coventry*.] A strange message as ever was heard ! The King desires your opinion, and instead of sending yours, you ask his—It becomes the King to hear your advice, and then to declare his own—Had the King taken any resolution, he had never sent to you for
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your's—The King leaves the whole affair “separate,” or “not separate,” to you, and desires only your opinion.

Col. *Strangways*.] Would be sorry to make a false step in so great a thing. You were angry, at first, that you were not advised with, and now that you are advised with—The *French Alliance* was of no advantage to us. They looked on at sea, when they had the wind fair to have engaged. An Ally, that banished the King his territories, by *Cromwell's* desire! He made you raise an army, and keep it here, to no purpose—It seems that the sense of the House is for a separate Peace, but cannot go upon conjectures. It was once said, “give your money before the *Dutch* post goes, and you have Peace.” Desires no more of that again. Two millions five hundred thousand pounds were then given—He believes, the *French* have not lost all their good friends about the King. Let us proceed to give the King such advice as we never may be ashamed to own—Desires to proceed barefaced, let what nation soever be displeased at it—Would know upon what terms; not what we imagine and suspect, but certainly to know whether upon a “separate Peace,” at a Committee.

Sir *Henry Capel*.] Would be sorry to differ for a “Peace” or “separate Peace”—Would come to it, with asking the King as few Questions as we can.

Colonel *Birch*.] Cannot believe that any line in this paper tends to any thing but a “separate” Peace—We think that the King has been drawn into this League much to his disadvantage; but if this League has been so destructive to us, is it not better to answer it here, than to put the King to answer it? Would make it sure before we leave it—To give your advice that a “separate” Peace is your opinion.

Sir *George Downing*.] Would not make intricate what is plain—*Nodum quære in junco*. As for the fishery, would have no Debate about that: Next, if the King had said, “here are terms,” and nothing of the *French Alliance*—Therefore let us not start it: Many things are fit for the King

King to say, when the Peace is done, which he cannot say now.

Mr *Swynfin*.] Knows there is very great difficulty upon us; your advice is desired; before you give any, you must know what to give. He can tell you what he desires, but cannot tell you what he does not desire—Whether you advise for Peace, or no Peace, you engage the kingdom deeply; thinks you should know our Allies, and the *Dutch* Allies—It is necessary for you to know how the Mediation stands; believes the King and Council know, but you do not. If upon a partial knowledge, you may give a positive advice, so as to engage you, as those in a ship are engaged, in every point of the compass. All he knows is, that he does not know how we entered into the War, and that you know the sad effects of it; blood, and treasure, and loss of trade—Thinks, you know a Peace grateful, but to give advice upon propositions and circumstances we know not, would leave it to the King and Council, who correspond all the world over.

Mr *Powle*.] Thinks it dangerous to expose ourselves to the good-nature of our enemies, and breaking with our allies—By this advice, the King will know how the nation is affected, and when that is stated, those that manage the thing will inform you how things stand, at a Grand Committee.

Mr *Harwood*.] Wishes that the King's prerogative of making War and Peace had engaged him in a good Peace, as well as an ill War, without the advice of Parliament—*Powle* said, "Not part with this Alliance though ever so bad"—Differs from him in that, though he does not usually do so.

Lord *Cornbury*.] The Debate is, "Whether we should send to the King, or not." He is satisfied "not to send to the King." Thinks it a disadvantage to the King, for this reason, that such persons are near the King that wish well to the *French* alliance. Would not send to the King, as they may persuade him—Would only consider, whe-

whether these proposals before you are not a ground for Peace.

Sir *John Monson*.] Shall say nothing of the consequence of the War, or the Alliance, that we may give such advice as may be for the honour and safety of the nation—"A separate Peace!" Change of words does often change substance. We may be drawn into the War by them, and, by consequence, a vote of lives and fortunes to maintain it.

Sir *Charles Wheeler*.] If we like not the terms proposed, the King hopes we will get him better, and that is no other way but by war. It is the intention of the King to leave it absolutely to you, and would therefore have the Speaker leave the chair.

Sir *William Bucknall*.] Knows, that, as the case stands, the King is not satisfied with the War from the beginning, and the unprosperousness of it—We must know how all things stand with us as to our Alliances—By the Committee, what has not come out may come out.

[The Question being put, Whether this House, before they proceed in the farther consideration of his Majesty's Speech, will make an Address to his Majesty to be informed, whether the advice that is expected, is to relate to a separate or a joint Peace; the Question being put, that this Question be now put, it passed in the Negative.]

Tuesday, January 27.

A Bill was brought in and read the first time, to prevent Imprisonment beyond the Sea; to be committed to none but legal and known Prisons, not in *Scotland*, &c. An action of false imprisonment against Aiders, &c. Treble damages: Any person attainted of felony, or convicted, may be transported. Not to extend to Impeachments before the first Session of this Parliament.

Mr Attorney *North*.] This Bill is of great consequence, and would have it read [the second time] in a full House.

Sir *Thomas Lee*.] Though it is not your method, yet, that we may be sure of that Gentleman's company
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(the Attorney) desires a day may be appointed for reading the Bill.

Thursday was appointed.

In a Grand Committee [on the King's Speech.] *Sir Charles Harbord* in the Chair.

Sir William Coventry.] Thinks it not necessary to have the Treaty of *Breda* before us. We all dislike the War, and shall easily concur in restoring the Treaty of *Breda*, which that War broke—Whether you will go Article by Article, or not? You will not take upon you to word the Articles; they were not sent you for that purpose; thinks that you will not mend any thing—The King's and the Lord Keeper's Speech are sent into *Holland* doubtless, and will not say our Debate is—Therefore offers this Question, “Whether there be matter contained in the Articles to be a ground for Peace?”

Sir Nicholas Carew.] Before you go any farther, would vote the War “a Grievance.”

Sir George Downing.] He will not tell you his opinion of the War; most know it. He is not for going Article by Article. Will never consent to the main Treaty as it stands. If you confirm it, you confirm passports as they stand; not a ship can go to sea, but they may bring her into port. It ties you to keep out your flag all the voyage, and to tell the names of your Captain, Officers, and Passengers—If you proceed Article by Article, you will involve yourselves in many intricacies; but upon the whole matter, would have the King desired, by his means, to procure us a Peace.

Sir William Lewis.] A comprehensive Question is offered you, to carry your desires to the King. Would form such a Question.

Sir John Holland.] The King has been pleased to “desire our Advice;” he could have wished the King had been pleased to have desired it at the beginning of the War—So tender and precious a thing it is to part with his Prerogative, in asking our Advice; and therefore moves, in our duty to the King, “that we may go to the King, with our humble Thanks and humble Address

dress for his Speech; and that we have considered the proposals of Peace, and that it is our opinion, that his Majesty has a foundation there to lay of an honourable Peace;" and hopes, in that, to discharge our duty to the King, and settle the people.

Sir *Thomas Meres*.] We all intend, he hopes, the word "separate;" but it may be as well omitted—Not to have such a word in our Address as may be catching at another Session—Not to weigh parts of the Articles, and yet to say "matter sufficient" in them, does not agree; but unless you see something more, you cannot, as a wise and solid Council, say, "there are grounds." Though men may be satisfied man by man, yet it must be as one collective body—Moves, by this Address, "to express the condition of the nation by the War"—A speedy Peace is most agreeable to the nation—Gives no judgment of the proposals, being not sufficiently informed of them; but considering the advantages of Peace, and disadvantages of War, a Peace is most desirable to this nation.

Mr *Hampden*.] You sit here upon the King's Speech, and it is offered to you—Wishes you would have gone on with the Articles, because *Downing* said, (who knows affairs) the first Article was not to be restrained—Will you go alone, without the Lords, and they without you, and give different Advice? We are both together the great Council, and should proceed by way of conference—Agrees with *Meres* for "thanks to the King, for his gracious Speech," and would then represent how grievous the War is, and how grateful Peace, and submit all to his Royal judgment.

Sir *William Coventry*.] Moves "going without the Lords." What Advice we shall give he knows not, but to stay for the Lords! We are not to pin our Advice upon the Lords' sleeves, being the whole body of the Commons. In order to *Hampden's* Motion, of "going to the Lords," you must come to some opinion in it. Would have no part of the Address be what is mentioned—If, instead of Advice, you set out "the miseries of the War," thinks

it not the way to have a good Peace. Enemies will take advantage of it—If Gentlemen do not offer any thing, it must ripen itself—Would not pass, by way of debating, the particular Articles, but the best method is to advise as generally as you can; not to direct particulars, nor yet to debar any particular information, only to give the King a general opinion—But does conceive they contain matter of Peace.

Sir *Thomas Meres*.] Intended not, by his Motion, any reason for the presumption of the *Dutch*; though you say nothing of it, they understand your condition. If you vote “sufficient ground for Peace,” the *Dutch* will say, “the House of Commons are on our side.”—Would give no presumption on that hand. Considering the present condition of the nation, Peace is most desirable—Moves as before.

Mr Secretary *Coventry*.] *Meres*’s Motion is not regular—Your advice! At what rate you shall have Peace! As if a man sends to one to borrow money to buy a manor, and he sends him word, “the manor is a good manor,” but says not a word of the money—Thinks the King has not committed a *sin against the Holy Ghost*, in policy, that the Parliament should not tell him what to do; whether farther to advance, or take it upon the terms offered. The Lords have taken their method already, he thinks, and we may take ours. You may look upon and sift any Article—Come to some result, whether a foundation for Peace, or no. We come on to *February*, a time to think of setting out ships—Hopes it shall never be said, we meet not the King, when he comes so far to us—Shall any of his Ministers presume to advise him, now all is put into your hands? Men may give unfortunate counsel, but you are sent here to give counsel—Be the House of Commons on the *Dutch* side, as is said; is sure you are not on the King’s side, if you give him no counsel. This the King desires of you, and pray take it into consideration.

Mr *Boscawen*.] So little fruit of the War, and you must pay the reckoning! You were not advised with for War,

War, and if you advise Peace, all will be laid upon you. If we go upon these Articles, we embrace them particularly, and so it will be said, “the Parliament of *England* takes no notice of the Fishery”—We had no hand in the War, and desires not to meddle with the Articles.

Lord *Cavendish*.] Thinks it well moved about “the Lords concurring;” but thinks the Lords can give their advice cheaper than we can give ours; therefore would consider farther of it. Would generally “present to the King the state of the nation by the War;” and let some Members withdraw to form an Address.

Mr *Seymour*, the *Speaker*, out of the Chair.] Never had any inclination to the War—Cannot but take notice of some arguments from the War, of ruin of Trade—Cannot boast of our success in the War, but the least of the expences will come to the *English* account. The greatness and power of *France* are lessened, her treasures spent, and armies wasted—Appeals, if this, in great measure, is not come to pass—He saw the misfortune of *Holland*; cannot see, when he looks home, that it is our case—That care has been taken for the security of Commerce and Trade, that we had greater importation this War, than in Peace; no money went out of our country, and no foreign armies were in the country. The money went not out of the nation which the *French* King sent. Has learned here, that *serpens qui serpentem devorat fit draco*; and, after all, sees Gentlemen at a stand what to do—Has heard of Counsels in a corner—It is enough that the Treaty of *Breda* is ratified, and the business of the Flag explained, and in no danger for the future, as your advice will keep the *Hollanders* from infringing it—The King is not able to make a War. He knows they are at a stand in the Navy Office, and how will the Debate here of pressing men keep back men, and all misfortunes, formed in our imaginations, befall us, if we are not of opinion, “that the Articles are a ground for Peace!”

Colonel *Birch*.] Agrees, that nothing should drop here that may make the *Dutch* proud—Is one of those that would get what he can—Is far from believing that our

condition is as *Seymour* has stated it—He has known what would set out a fleet. Formerly four pounds a month a head would do it lavishly. The landmen are paid elsewhere, and there are vast sums brought in, and believes there is no need of money—He tells you, “though it cost you much, yet it costs the *Dutch* more.” Two neighbours went to law, and undid one another; and, sitting by the fire side, one was comforting himself thus, “but it cost my neighbour more than me”—We have made *France* too big. She has a better fleet than we, and knows our ports. This loss we shall pay for dear, remember it—In composing a quarrel, the arbitrators enquire first, how fell they out? Four great causes are said, the Medals, *India*, *Surinam*, and the Flag; why should we ravel into things, and say this is no cause of War? Cannot agree with several Motions—Somebody advised this War against consent, and without Parliament; something made them do it, and now they are afraid what to offer you; but plainness is best—An Address with thanks he agrees to in all humility, *viz.* “That the House of Commons is of opinion, that the terms of Peace are such as may be a ground to make a firm Peace, without reference to any other Prince, and most suitable to the nation.”

Sir *Thomas Lee*.] *Birch* said, “he was willing to get what he can,” and he is willing to lose as little as he can—Remembers when five millions were paid for a vote of “assisting with lives and fortunes,” in the former *Dutch* War; he dreads that again—Some depredations of the *Dutch* were then, and the Parliament advised a War; but Peace was made; what the Articles were he never knew; there was money given for a fleet and none set out—How can we say, that these Articles, now, are a foundation of a Peace, which refer to other Articles which we must see; and, in the steps we go to obtain Peace, act so as not to be blamed when we go down? It seems to him to advise in the dark, in the whole lump. This looks to him as something done not to be owned—As for the fishing, he knows not what is done with that Article; they that made the War, he believes, know better

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ter—How much may be said? That you take this Peace upon you with all the Articles, or what argument may be drawn for money? Moves to “remit it to the King.”

Sir *Thomas Clarges*.] In *Edw. I.*, and *Richard II*’s time, though the Commons did then decline the advice of War, yet they gave a subsidy upon it—Thinks this no foundation of money. If we give no advice, the War may go on, and then there will be a necessity for money, the revenue, the taxes to come, and the customs considered—Doubts our loss is not so little as is said. *London*, after the Plague and Fire, had lost two millions—He cannot refine so much upon the King’s Speech as others, but plainly what is before him—Desires we may not lose this hold the King gives us, and approves of these Articles as a ground for Peace.

Sir *Henry Capel*.] If you return the thing to the King, it will show a greater confidence in him, and it will be of more terror to the *Dutch*.

Mr *Powle*.] There is no precedent, that we have refused the King advice, but formerly it has been remitted to the King and his Council; and he would be advised by them—The *Palatinate* Treaty, and the marriage with *Spain*, the House then took no exceptions at, having the thing communicated to them, but advised the King to make War—If we lie at the mercy of an enemy, that will draw money from us, without doubt; but knows not how Peace will bring on money—The *Intercursus Magnus* with *Charles* of *Burgundy*—Fishing without licence and safe conduct in *Henry VII*’s time—The Commons answer in 42 *Edward III*, “It was against their Allegiance to advise any thing against the Prerogative of the Crown”—If we cannot set out a fleet, we shall be in ill condition for War. The only way for our Trade is to get Peace, and secure the discontents at home, where people think we fight our great neighbours battles—Sees no danger in not advising a War, and the Articles are a sufficient ground for an honourable Peace.

Lord *St. John*.] Appeals to the Record. It is not, as *Powle* mentions, of “giving advice.”

Mr Secretary *Coventry*.] Did the King then make War without the Commons, and they then complain? That precedent which Lord *St. John* mentions was very different from the case now. Foreign States make no contract with Parliaments—We cannot give encouragement to quit what has been so long in the Crown—As to the case of Religion so much in discourse, no considerable Protestants are in arms but the States and the King—You find good grounds to hope that the King may come to a speedy Peace.

Sir *Robert Howard*.] *Impar Congressus*, he confesses, betwixt *Swynfin* and him. He that is not for Peace, forgets the four Gospels; therefore he is “generally for it.”

Sir *Thomas Littleton*.] Did foresee plainly that the King and his Council would be for a Peace; we think that the consequences will be, that the King of *France* will vomit up, by this, all he has gotten, and be reduced to the *Pyrenean Treaty*—But this will have another effect. *Spain* and *France* will by it make a better Peace. *Monteri* * will not hazard his army, governed by a Queen Regent, and an Infant King—The issue of running down the King of *France* will not answer expectation—Doubts whether these Articles be fit for us, we being so in the dark; and 'tis fit so great a body as we should be fully informed; therefore it is our desires; a Peace would be acceptable, but we are not in a condition to give advice in it.

Sir *William Coventry*.] The inference is, that *Littleton* is against any Peace—Recurr still to our own affairs—*France* is not likely to have Peace—It is our interest to have Peace before our neighbours, if we can. It becomes us better to offer our opinion on these conditions. You offer no more than what you are privy unto; but if generally, we are wholly in the dark as to the affairs of *Christendom*, since few of us have the means of knowing, how intelligences and reasons of state are abroad—If the posture of affairs alters, yet our reason remaining good, and the King not-disobliging us if he makes no Peace; therefore would not address “generally,” but “particularly, on the Articles.”

* The French General in *Flanders*.

Sir *Thomas Littleton*.] Has little knowledge of state affairs more than what he collects out of news books, and about the town—*France* to have Peace sooner, after we have left her, than before, is a strange notion!—Great alarm of her conjunction with the King of *England*, master of the seas as well as the land! If we make a separate Peace, she will languish in her greatness, and must make Peace. The *German* Princes are concerned to rid themselves both of the *French* and *German* armies; the *French* army for the present, and the *German* army, lest they hereafter come under subjection to the Empire; and therefore it is their concern to have Peace.

Earl of *Orrery*.] Is one of the number that believes Peace desirable; he is of the latter opinion. If you advise “in general,” you are in the dark; if, “as to Articles,” you speak in the light, you know what you say: You are certain of Peace upon these Articles, the other not—Great difficulty for the King—Be pleased to vote “these Articles a ground for Peace,” and when that ground is laid, proceed.

Mr *Sacheverell*.] No more than six hundred thousand pounds can be already spent, at four pounds a head.

Resolved, That upon consideration of his Majesty’s [gracious] Speech, and the Proposals from the States-General, this Committee is of opinion, that his Majesty be humbly advised to proceed in a Treaty with the said States, in order to a speedy Peace.

Colonel *Birch*.] Has heard so much of not leaving the *French* with honour, that he would have the word “honourable” left out of the Question.

Sir *John Monson*.] Fears that the word “honourable” would involve us in the consideration of money, and would leave it out.

The Committee divided, and the word “honourable” was left out.

Sir *Anthony Irby*.] Moves that the word “Protestant” may be inserted; *but because that might give the King of Spain offence, it was not insisted on.*

The House agreed with the Committee.

Wednesday, January 28.

A Petition was presented from *Bernard Howard, Esq; * of Norfolk*, containing an Oath he would take, to testify his being a good Subject, and to exempt him thereby from the penalty of the Law against Recufants,

Sir Philip Warwick.] Is never for changing the Laws upon particular mens accounts—Though he has a great honour for the person, would rather have some general thing done.

Mr Crouch.] The Petition is to dispense with a Papist, contrary to Law. Can you repeal a Law upon a particular man's account by Petition? Would not read the Petition.

Sir Thomas Lee.] If he differs from friends, craves pardon—The Laws against Popery are not so much for the revenue of the Crown, as for the security of the kingdom. It is for its safety for every Papist to be known—No man can believe what he has a mind to—This Gentleman tells you, “ he will live quietly, and yet cannot change his religion, being born in it”—You may well receive the Petition.

The Petition was read.

Sir Courtney Poole.] We have given too much countenance to this Petition, in reading it—Would throw it out with scorn.

Sir Robert Howard.] Does not desire to throw it out “ with scorn.” The Gentleman is of so much honour and gallantry, that he would not say, much less swear, a thing he would not perform—This deserves not “ scorn” for a man to live quietly—It would be a good thing to be done for all other Dissenters—His allegiance, he shows you, is not vitiated by his religion. Leaves it fairly, and does not so much as move for a Committee to consider of it—If the way be thought worthy of this House, the Petitioner has showed himself a good subject.

* Eighth son of the Earl of Arundel, and brother to *Thomas Duke of Norfolk*.

Mr *Garroway*.] The Gentleman is of that honour, that what he has presented you in the Petition, is from his heart; believes he intended it clear and fair—Would prevent the growth of all that would destroy him and those of his belief—The King of *France* would not suffer his sister to come near him, before she changed her religion; but all our care is only to prevent the growth of Popery—Would think of some direction for a Bill, that these Gentlemen may have something for a rule, that they may walk comfortably under the Government. If relief, not by any single Petition, but by a Law—Is one of those that would have them live comfortably and securely in what they have, but no employment in the State or Militia, and if they thrust in, would have the Law capital. *Was called to Order by*

Sir *Trevor Williams*.] *Garroway* speaks so positively against Laws, that it is irregular.

Mr *Garroway*.] Thinks we may debate the thing. If their names be entered into a book at the Assizes and Sessions, you may know their numbers, every Priest and Person, and the increase of them. As two thirds of their estates are under the power of conviction, though not presented, yet it terrifies: but as for riding armed, &c. he would restrain them; and to do something of this nature, to prevent the growth of Popery, would be serviceable for the nation.

Sir *Nicholas Carew*.] *Garroway's* motion is not seasonable—Though *Bernard Howard* be his old acquaintance and particular friend, he must lay all that aside here, and would have the Petition laid aside—It desires not only the last Law against Popery, but all Laws, to be repealed for his sake, and this Oath only for his family; and by what justice can you deny another family? By this Oath they will use the King well when they have deposed him—Whether then will you allow all the Church of *Rome* to come into offices upon this Oath, which is not to renounce the authority of the Church of *Rome*? Would lay it aside.

Mt Powle.] This Gentleman. (*Howard*) is of a most inoffensive carriage, and he has heard him say, “he desired his religion only in silence.” If you intend any distinction, or discrimination, of Papist from Papist, would do it for this Gentleman’s sake.

Sir *Thomas Clarges*.] The Laws of forfeiting two-thirds of their estates increased rather than diminished them. Those Laws are never executed—It is High Treason in the perverter and perverted, but never executed. Such rigorous and sanguinary Laws do more hurt than good—Men under great burdens never leave striving and struggling till they have got them off; but if a Law can be found out to make them of one common interest with the people, lessening the number of Priests, and a Register to discriminate persons, would be of great use.

Mr *Garroway*.] He desires that neither *Howard*, nor any of his opinion, may have any offices—As he would not have them persecute him, so he would not persecute them by an uneasy way of life. Others, it may be, are not so honest as he, therefore would not throw the Petition out with scorn, but “gently lay it aside.”

Sir *Charles Wheeler*.] Had he thought the Petition would have produced so many favourable discourses of Popery, would not have been for the reading it; and should be very sorry the discourse should be out of doors—The Registers mentioned will rather give us terror with their numbers, than be of other use—Every Parliament makes Laws against them, and none are executed. There is great necessity to prevent the growth of Popery, and, with a Bill for prevention, these things may fairly come before you—In *Barbadoes*, they are so much of the temper of indifference in Christianity, that, in the judicial Courts, if they swear upon their belief of the books of *Moses*, it is sufficient.

The Speaker.] You have ordered already a Committee to prepare a general Test, to distinguish between Protestant and Papist, and to prevent the growth of Popery, and Papists not to come near the Court nor City.

Sir

Sir Henry Goodrick.] Promotion and promoters of Popery ought to be punished by your opinion—Any countenance of this Petition would be of ill consequence—In *Italy* they say, “the inhabitants of this kingdom are not Christians.” As to the word in the Petition of “keeping faith;” here Christians are separate from Hereticks—Would never have it countenanced by this House—Would spurn it out of your House.

Mr Secretary Coventry.] Bernard Howard seems, by his Petition, not to be of the opinion of the Church of *Rome*; he shows you his great aversion to breaking faith—This of the Oath is of great weight, either general or partial. He ever thought it policy to divide enemies, and ever thought it charitable to favour the less criminal—It has been of great service and moment in *Ireland*—Some Catholics have, by this distinction, been excommunicated by the Pope; perhaps this Gentleman is—Will not say directly what to do in this business, but would not dismiss it.

Colonel Titus.] Though it is said, “several discourses have been upon this occasion in favour of Popery,” he has heard none—Whoever is under you and not at his ease, is always dangerous to the Government—Desires the Petition may be “withdrawn;” but would not “throw” nor “kick” it out. “Withdrawing it” shows you have no mind to do the thing, and yet is a respect to the person that brought it in.

Sir Thomas Littleton.] As to Sir William Lewis’s motion of “retaining the Petition till the rest of the Bills of Popery come in;” the House seems neither to repeal nor increase the former Laws, but that Papists should not have power to influence the Government—Naturally the people favour all under severe Laws—Retain it till then, and then do what you please with it.

Sir Thomas Meres.] Finds persons run this discourse into generals—If it be said out of these walls, “deal kindly with Papists, it is the safest way,” answers, we see the effect of kind dealing with them these ten or eleven years. But says Bernard Howard, “I will live at ano-

another rate, I will be kinder to Protestants than to other men ;” but trust it to no more than one ; see how he will do with it ; and three years hence another—When the Bill comes in, you may admit the Gentleman a Proviso of this nature.

Sir *William Coventry*.] Should this have effect, as *Meres* says, surely so many would come in as would sink the boat that it could never fail. Whenever it comes you will find it of great weight, but, out of particular respect, would have the Petition lie on the table.

Colonel *Birch*.] Pretence of suffering has got the Papists much ground. Our neighbour, the King of *France*, has made a Law, that a Protestant, though next of kin to the Crown, shall not inherit, but a Papist next him ; and we do a thing so contrary to all abroad, that it is an ill time to do it in—That being once done beyond sea by this Gentleman’s means and others, would then begin to do it here, and not before.

Sir *Thomas Higgins*.] This Petition is not in favour of Popery, (*laughed at*) but one of the Popish Religion, encouraged by Lord *Bristol*’s * Proviso, who was for your Bill in the House of Lords—Let the Petition lie upon your table till the Bill of Popery comes in.

Lord *Cavendish*.] This Petition is to favour one, as a person “ that would live quiet.” Desires it may be retained.

Sir *Thomas Doleman*.] If the little thief gets in at the window of the house, he will soon open the great door to let in the rest of the thieves. Let one in by such a Petition and you may let in the rest ; therefore would throw out the Petition.

Sir *John Duncombe*.] Would be glad to do any kindness for this Gentleman, but is not for the Petition ; he has had, in effect, his Petition already ; you see the inclination of the House to make them “ live quietly.” *Howard* asks it not for himself ; he knows him a quiet man—It is for him and his family ; the consequence whereof is,

* This Earl of *Bristol* (who died in 1676) spoke for the Test Act, though a Roman Catholic.

it confirms that family in being Papists by Law—Your design is to “prevent the growth of Popery.” Your Debate preparing mens thoughts to “prevent disquiet,” he would have him withdraw it (*which was done.*)

Thursday, January 29.

Sir *Nicholas Carew* complained, as a Grievance, of the altering the House, by shutting up the door of the gallery into the Speaker's chamber.

Sir *Thomas Clarges.*] Alterations in the House ought to be by directions from the House; and in King *James's* time a warrant was directed from the Speaker to the Surveyor of the King's works, “To our loving friend,” &c. to make alterations—Would have the back-stairs doors shut, and the Speaker's chamber only for Members.

Sir *John Birkenhead.*] The House is the King's chapel, and the Surveyor has orders from the King's own mouth to repair, or make alterations.

Ordered, That a Committee search precedents, and report them before any Order be made in it.

Debate on the King's Speech and the *Dutch* Proposals.

Sir *Eliab Harvey.*] Would have the vote carried to the King without any farther Address.

Sir *Thomas Clarges.*] Considers the King's great Grace communicated to both Houses, and would send to the Lords for their concurrence to our vote, without taking notice what the Lords have done.

Sir *William Lewis.*] Anciently and regularly, when you carry up a vote, the Lords name some, and you a proportionable number, to consider the Address.

Sir *Richard Temple.*] Would comprehend “Thanks” with the vote.

Mr Secretary *Coventry.*] The Lords have made their Address already, and your vote being penned one way and the Lords another, and for the Lord-Keeper to present both, is improper.

Sir

Sir *Nicholas Carew*.] Is for "thanks," but thinks we need not have the Lords concurrence—But as for our vote, thinks it proper.

Sir *Robert Carr*.] If the Lords had thought to have it joint, they would have sent to you; they have done it already, and concurrence now is not in their power. The Lords have viewed Treaties and you not, so you are upon different informations.

Lord *Cornbury*.] It is irregular to take notice what the Lords do—The Lords may concur in the vote, though not in the thanks.

Mr Attorney *North*.] We are masters of the manners, and masters of the words; the Lords have penned theirs—Would go by ourselves.

Sir *William Coventry*.] The King spoke to us both together, and, believes, hoped for a uniform advice, not to distract him—Sometimes it is commented that we have made a breach of privilege by not desiring the Lords concurrence. He speaks his story from without doors, as other men have done. That point is cleared there, but when we have our liberties and properties concerned, and fear obstructions from the Lords, we waive it—We know as much of the matter as probably we can, and the Lords are of our mind in this matter. 'Tis objected, "the Lords have thanked the King." It is answered, we cannot thank the King too often—Knows of no answer we have given the King for communicating any thing, but always "with thanks," and the Lords will not forget good breeding to thank with us, though twice.

Sir *Thomas Littleton*.] Thinks it strange that for that which is spoken to both Houses jointly, Thanks should be returned from one House apart.

Thanks were voted, and the concurrence of the Lords desired.

The *Habeas Corpus* Bill was read a second time.

Mr Attorney *North*.] The penalties in this Bill are like those in the Act of Popery; but those are remedied by conformity, but here is a perpetual disability of conforming, and loss of office, &c. "Legal and known prisons;"

prisons;" no imprisonment in Law in order to examination or punishment—If a man commits a murder in *Ireland*, or *Jersey*, &c. by this Bill there is no Law to try him here—If a man is committed to *York* jail, and lies by the way, that is a prison where he lies. Knows no need of such a Law, and mischiefs make a general Law. As the Law is, no man can be imprisoned, but in a legal prison, nor sent abroad, but in order to tryal.

Sir *Richard Temple*.] Custody, in order to examination, is not a prison—If we have value for our liberties, we would secure them by Law. Several have been sent to *Tangier*, and the islands, since the King came in—Thinks your provisions against it, in this Bill, not strong enough—Reached by actions and indictments; some people may be too great to be reached by actions, and the King may enter a *Noli prof.* upon an indictment, and hopes, upon commitment of the Bill, that may be remedied.

Lord *Cornbury* reports the Lords Answer to the Message, "That, as to Thanks, they had already attended the King in a body; and that, as to the Vote of Advice, they would return answer by Messengers of their own."

A Message from the Lords, "That, upon consideration of the King's Speech, and the whole matter now before them, they are of opinion, that his Majesty be humbly advised to proceed in a Treaty with the States-General, in order to a speedy Peace."

Debate on the *Habeas Corpus* Bill resumed.

Sir *Thomas Lee*.] No penalty is too great or heavy for unlawful prisons. For murder committed beyond the sea, there is a remedy; for treasons, there is a special Act of Parliament for tryal in *England*—Formerly objected against the Bill—Less mischief to the *English* nation, that those men should go unpunished in the place where the offence is done (and few escaping there) than that *Englishmen* should be sent abroad for offences done here.

Sir *Charles Wheeler*.] "Legal and known prisons"—Knows not how "legal" a prison is, when there is a garrison,

garrison, by the King's commission, where no Sheriff can come.

Sir *Nicholas Carew*.] Hopes you will give power for the Sheriff, if he has it not already—The Green-Cloth Messengers imprison in their houses; they are “unlawful prisons,” and would have these considered at the Committee.

Mr *Powle*.] Imprisonment to custody is no part of punishment, and so would have excessive Jailors fees of prisons stinted and settled—“Demeanor” when in custody, not for every slight commitment kept close prisoners—It is fit in treasons and great crimes, but not on every slight occasion—“For sending beyond seas,” in King *James's* time, when the Union was so affected, 3 *James*, tryals should be—Not sending men abroad, though the danger were less in escaping tryal, than sending men over hither to be tried.

Sir *John Duncombe*.] It often falls out in the Treasury, that men are taken into custody, for fear of losing the King's money—Sending a man to jail, and he meeting ill company there, may ruin him, therefore better for the subject.

Mr Secretary *Coventry*.] The Bill is tender in many places; if not committed close prisoner, very inconvenient in some cases—A man informs, that ships are to be burnt at *Chatham*, or the town to be fired, or a murder; if the party be not kept close, he may be tampered with by his accomplices. Such business cannot be done without it—When the Bill is committed, would have such regard had to it, that may make it possible to be practised.

Mr *Waller*.] “Common prison”—Sometimes the plague comes into it; sometimes a man is kept in an house, in favour of the prisoner—The Guards is no prison—Tells this story: In the Usurpation, some Gentlemen of good quality were sent to the Guards, at *St. James's*. They would have made their escape, and killed the soldier that guarded them; but they would not kill them again, for fear of retaliation in the King's quarters at *Oxford*. When they were indicted, some Counsel told them, they were in no legal prison, and it was not murder, being pri-

prisoners of war. There was a brave Jury upon them, (he speaks it for their honour) who found them not guilty — Would take care that no courts of Guards be prisons.

Colonel *Birch*.] Consider where our mischief in this has been. It has been very common to commit by the King's or some great Minister's warrant — He has heard in this House, that the King cannot commit a man to prison; it is not reasonable he should be both Party and Judge — Knows the King is uneasy by it. A man is first committed by a Privy Counsellor, and a day after the King's hand to it. Does not like it, that all things should resort to the King's command. If so, all your provisions against it signify nothing. Knows not by what causes and counsels, but put upon the King — The Doctrine he has always heard here is, "the King can do no wrong." It was told you, "a person may burn the ships." Can tell you of many committed, but where is any one proceeded against? When he has nothing left, then turn him out of prison, and no man knows what is become of him (the *Herefordshire* Priest) — No man is committed but cause is shown, and a person found by the Lord Keeper to prosecute — Make the Bill effectual, or not at all.

Sir *Thomas Byde*.] A year and half ago he was sent for by a Messenger, and brought to the Green Cloth, with four of his servants. He desired a copy of his accusation. They threatened to lay him by the heels, if he sued the Messenger. He paid five pounds for Mile-money. The term was not in being, and he could not have his *Habeas Corpus*, nor any remedy, and he fears it again — Sir *William Boreman*, of the Green-Cloth, told him, "you must not tell us of Statute-Law; neither Lawyer nor you understand Compting-house Law, which is our Law." So he paid his fees for being in custody.

Sir *Thomas Clarges*.] More warrants to the *Tower* under the King's hand now, than in two hundred years before. Would have those that subsign these warrants be answerable for them.

To proceed on *Saturday*.

[*January 30, King Charles's Martyrdom.*]

Satur-

Saturday, January 31.

A Petition was presented from Mr *Henry Savile*, and Sir *Paul Neale*, in reference to their being lawfully elected for *Newark*, craving leave to be heard by their Counsel*.

Mr *Sacheverell* presents a Petition from the Freemen of *Newark*, viz. the new Charter obtained for the Mayor and Aldermen to be sole Electors, and they have taken *Balderton*, *Cottingham*, and *Winthorp*, into the liberties of *Newark*, as part of the Borough, and these places are under a new jurisdiction, and not capable, by the said Charter, of having any vote in Elections, and yet are liable to pay the charges of Burgesses in Parliament for wages.

Sir *William Coventry*.] Having both Petitions before you, you may proceed the more entirely upon the matter, and moves for fourteen days time.

Sir *William Lowther*.] Would refer the matter to the Committee of Privileges.

Sir *William Coventry*.] This is not the case of the two persons pretended to be elected, but upon the weight and validity of the King's Charter, an absolute new thing, and no way relating to Elections—Cannot say he looked upon the order; but the House saying, they would consider of it, it seems to be referred to the House—The persons returned have a certificate from the Clerk of the Crown; they are returned and sworn. If it must be referred to the Committee, they are to sit first—The respect of the King's Charter would challenge it from you, to be heard in the House—From a business that concerns a Member being heard here, the least respect you can show the King is to hear this here.

Sir *Thomas Meres*.] Where is an Election for *Newark* upon your books? The next return may be from the Royal Society; but just, that, if a Corporation of twelve men should be represented, the Royal Society should, a much better Corporation—Make it different, pray, from

* See p. 128.

a case on your books; let this come to you by all the steps and degrees by which you can come rationally to this thing—If you refer it to the Committee of Privileges, he will set a time; if not, he can say more to it now.

Sir John Birkenhead.] The case is, a new Borough, of which you were never apprized, to be heard in the House; an error in the first step. The Commissioners should have acquainted you with it, and their Charter should have been read in the House. Let the Clerk read their Charter, and then judge, before you throw them away to the Committee of Privileges.

Sir Courtney Poole.] If they have surprized the King in the Grant, and we are surprized in the manner of examining it, would have it go to the Committee; you will soon, else, make the House a Committee for all business.

Sir William Coventry.] It is an unequal match betwixt me and you, Mr Speaker, in matter of Privilege; but as you mentioned that, the Charter ought to be read here; if you send the case to the Committee, you must allow it an Election, and allow your Members; and the thing is neither Privilege nor Election; it is the Privilege of the King, and you will not send him to a Committee! You must allow them Members; you cannot under any other qualifications—You may as well try the Lord Mayor's and City-Charters and Privileges at a Committee.

Mr Waller.] It is no case of the Members, but of the King. Old men told him, when he sat here (King James was a scholar, and a lover of them) that they then chose for the Universities; Mr *Selden* told it him; they then grumbled at it in the House—The Royal Society may as well as scholars of the Universities—Would have a special Committee of the Long Robe, to search Records about it, and report them.

Sir Anthony Irbys.] You have sat here twelve years, and had no news of this Borough. If, the Parliament sitting, Boroughs be made, there may be as many new

Members sent as we are already, and what will be the consequence of that ?

Sir Richard Temple.] It is called, on one hand, the King's Prerogative, and, on the other, the Privilege of this House. If to be heard at the Committee, you are not like to hear of it again—The right of towns in general is not the business of the King—You will find “Universities” Corporations, but the unlimited power of it may have many consequences.

Serjeant Maynard.] If the Question be, whether the King may erect a new Borough, that cannot be denied ; he may make a new County, as many have been—This is a general trust in the King ; a great number sit here now by new Charters, and it is the same Privilege in this case, a case hard to be disputed here, that was never before so.

Mr Secretary Coventry.] The Gentleman behind him (*Temple*) has a mind to turn us all out rather than to take these in. Knows not where we are at this rate. If the Clerk of the Crown's Roll be good, you must call the House by it.

Sir Thomas Lee.] If this House has any Privilege, it is, that none that are not of the House shall hear Debates ; if there are no footsteps of their being in the Roll at the beginning of this Parliament. If a Charter should be granted to a particular man to sit here, would you admit it ? This is of vast consequence, and divers points in it to be debated ; but, above all this, here was a Charter granted, and here comes a new one to but a part of a body incorporated ; that whole one shall be but part of one for this purpose of Parliament-men ; therefore would commit it, that Gentlemen may have liberty to speak to it as often as they will.

Sir William Coventry.] Is willing ever to accommodate a business. Was willing to have it referred to a Committee ; and moves for a Committee of the whole House, that it may be heard more solemnly, and that Gentlemen may speak as often as they please.

Mr

Mr *Sacheverell*.] This Charter was gained by a strange way, and many others, he hears, are granting.

Sir *Robert Carr*.] Moves that it may be heard *Monday* come fortnight.

Mr *Powle*.] It is proper to go to the Committee of Privileges, as a return before you of two Members; when it is there, then it is proper to enquire how these men are returned—Supposes, that the Committee will never judge the validity of the King's Charter, but report the matter to you.

Sir *John Duncombe*.] It is complained of by Gentlemen, that this Charter is illegally obtained; who so fit to judge of these things as the House? It is a thing of more than ordinary consequence, and therefore would hear it in the House.

Sir *William Coventry*.] Here are Statute books and Common-Prayer book for the use of the House; would have a book of maps for the help of our geography; for *Meres* says, you allow a month for a hundred miles distance, and you allowed but a month to *Cologn* in Sir *Lionel Jenkins's* case.

The business was referred to the Committee of Privileges.

Sir *Thomas Clarges* reports precedents about alterations in the House, from 1 of King *James*—A Warrant from the Speaker to the Surveyor of the King's works—Want of place to sit by reason of new Charters.

Ordered, That the King's Surveyor and other officers do make such convenient room in the House as is requisite.

Ordered, That *Monday* three weeks be appointed for calling over the House; and that a Committee be appointed to consider of a way to compell Members to better attendance, and to punish their absence.

Sir *Robert Howard*.] *Birkenhead* says, the Order is in the book, and not in the book; the Clerk says so, but not living now—Knows not what he says.

Mr *Waller*.] What *Birkenhead* says is true. *Licet præfari*, and when that is over, the Clerk sets down the Orders.

Sir *Thomas Lee*.] Several records *Birkenhead* has quoted as falsely as he has misquoted this record—Though reported by the Committee, would have the House have satisfaction from *Birkenhead*.

Sir *Nicholas Carew*.] Thinks he has given the House satisfaction already, that he is in the wrong.

Sir *William Coventry*.] The House may differ from the Committee, and he thinks *Birkenhead* has liberty to mistake as well as other men; but it is said, this day and that day, of entering the Order, because universal; the Clerk entered it not in short words, but at length—It has something of the matter of *Newark* Election in it (room for your burgessees to sit.) Would have it referred to the Committee of Privileges.

The House was altered again without a warrant.

Sir *William Coventry*.] Moves for an Address to the King for removal of the Dukes of *Lauderdale* and *Buckingham*.

Lord *Cornbury*.] Is against an Address, especially at this time. If you have no more Counsellors to remove, nor other Grievances to redress, then you may now do it—Concerning one of these Dukes, for removal there is no reason; would have Gentlemen, therefore, to consider whether they have any other persons to remove, and then resolve, &c.

Sir *Nicholas Carew*.] Differs from *Cornbury*. Two Lords in one Address is enough. Like rods, too many in a bundle, are not easily broken—Would take two or three at a time, and hopes at last to remove all the ill ones.

Mr *Sacheverell*.] Would not have them both in an Address; it is proper for *Lauderdale* now for "maintaining the King's edicts," &c. You cannot sit here on these terms—Would assign that for a cause.

Sir *Thomas Lee*.] Would deliver the vote by the Speaker, without any variations or alterations.

Sir *Thomas Clarges*.] Would have the concurrence of the Peers, either at a Conference, with reasons, or at their Bar—Appoint a Committee to consider of the manner

ner to begin a thing of this moment. Would not make ill precedents now.

Sir *Thomas Meres*.] Would have a difference betwixt *Lauderdale* a Commoner, and *Buckingham* a Peer. A precedent, in case of a Commoner, was that of Sir *John Griffith*, who commanded *Gravesend* blockhouses; the Commons went to the King, and he displaced him*.

Mr *Cheney*.] You have given yet no reasons for your vote.

Mr *Garroway*.] To subvert all Laws, and to say, "none shall be, but verbal Laws, for the future!"—You cannot be too severe—The King may do what he pleases with him in *Scotland*; you think him not fit to govern here.

Sir *Winston Churchill*.] Though we are satisfied, yet the King knows none of our reasons, and therefore would mention them.

Colonel *Strangways*.] If the King requires you hereafter to give reasons, and thinks your vote unreasonable, you may then present them.

Ordered, That the Privy Counsellors of the House do attend the King, to know when this House shall attend him with the vote relating to the Duke of *Lauderdale*.

Sir *Nicholas Carew*.] Would go to the King with this vote now, and to the Lords with the other vote.

Mr *Stockdale*.] Is indifferent whether we go to the Lords, or not, with the Address concerning the Duke of *Buckingham*—You have a great Privilege to address the King by common fame; his ill life, &c. Are you ever like to carry this charge of common fame to reach this man, &c.

Sir *Thomas Lee*.] Unless you make this as a vote of favour, you may go to the Lords with impeachment; you may demand it of justice, and not precariously.

Sir *Thomas Meres*.] In 3 *Charles*, there was a Debate about common fame, and your book tells you of what validity it was—Would lose no Privilege we have a right to, nor exceed that right—Would adjourn the Debate for two days.

* See vol. i. p. 202.

Sir Nicholas Carew.] We went not on suddenly after the vote, and in a few days five thousand guineas were dispersed to adjourn it longer. It may be so many days more may cost so many guineas, and so make guineas dearer yet.

Colonel Strangways.] If *Carew* knows any Members that have received these guineas, he should name them; and would have a Test upon us—If any man be suspected of guineas or pension, let him purge himself.

Sir Thomas Lee.] Was told that one *Masters*, of *Lincoln's Inn*, had reported, "That this Session a Member had said, that he hoped to get five thousand guineas."

Mr Harwood.] Both giver and taker manage their business very ill that will discover giver or taker—If any man's condition here be so that he cannot live without a salary, let him have it from the place that sends him—Here is common fame in the case, but since the great men were talked of here, many thousand guineas have been paid out in *Lombard-street*, which you may enquire into—Would have a Test to acquit every Gentleman of any thing so unworthy.

Lord Cavendish.] Many are accused of being Pensioners to the Court, for giving money here, and from the States General, for their interest.

Colonel Birch.] Has heard such reports, both in town and country. Observe the case, and what need there is to bring you off—How will this reflect upon the King, that it is thought by the people that the King should give us money to do any thing contrary to the interest of the kingdom! You hear one named; if an extraordinary thing, there is an extraordinary occasion for ways to clear themselves—Present Member by Member, and in the presence of God and the House let them clear themselves, as you once did about the Libel—Refer it to a Committee to examine this *Masters*, for the honour of the King, and vindication of the kingdom.

Sir William Coventry.] So much has been said in it, that it is for the honour of the House to have it thoroughly examined—Let a Committee consider the way, and let *Masters* be examined at the Committee, and not at

at the Bar; that admitting not so thorough a disquisition, the Mace being upon the Table, and the Speaker not quick enough to ask Questions; as *Masters* may retire, and recollect himself, whilst you are preparing new Questions, how to evade your Questions for discovery—A Committee is more likely to come to the quick and bottom of the matter.

It was referred to a Committee to [examine this matter, and to] consider what is fit farther to be done to vindicate the honour of [the Members of] this House.

The Committee soon after met, and *Masters* was examined as to the words, and, after much unwillingness to discover who said the words, at last said, “that being at Mr *John Howe’s* house in *Gloucestershire*, where he was very civilly entertained several days, (and therefore did give this account with great unwillingness, begging to be excused) he did hear Mr *Howe* say, “That he hoped this Session might be worth five thousand guineas to him;” but whether in relation to the *Irish* Cattle coming in again, or what was precedent or subsequent in the discourse, does not at all remember.”

Adjourned to

Tuesday, February 3.

A Message from the Lords, “That, upon the whole Matter, they think the Articles a ground for Peace with the *Dutch*.”

[Debate.]

Sir *Robert Howard*.] If we say “upon the whole Matter,” we seem to justify the passages in the *Dutch* letter relating to the Fishing and the Money; for by it they purchase all the King’s pretences. The words are extraordinary, dangerous, and large, and not so prudent for you to do; and that you may give no countenance to “the whole Matter,” desires we may have a Conference with the Lords.

Mr Secretary *Coventry*.] Neither you nor the Lords intend to retain all the words, and all the Matter, in the *Dutch* Proposals; but that is, “That the subject-matter offered may be safely assented to by the King”—They proffer Peace, and neither you, nor the Lords, hurt yourselves.

Colonel *Strangways*.] The inclination of the House is to "Peace," though not to "the whole Matter"—Desires we may go upon our own Vote; we judging upon what is before us, and the Lords upon what is before them.

Sir *William Coventry*.] It appears to him, that the Lords and we judge upon what is before us. The Lords have had more Matter than we; but that does not make why we should adhere to our own Vote, and not agree with the Lords—One word would reconcile it, viz. "respectively," and that comprehends both our senses.

Sir *Thomas Lee*.] The word "Matter" was avoided before in our Debate; the great end of all is a Peace, but thinks the Lords would not give any umbrage to part with the Regalities of the Crown—The case between the Houses is thus; you sent your Vote to the Lords; the Lords sent you an Answer by Messengers of their own; then we are both equal—Moves to remind the Lords of our Vote, and they may agree if they please.

The Speaker.] We could not divine what the Message of the Lords was; but Lord *Cornbury* went forward with his Message from the House.

Mr *Garroway*.] When we debated the thing, we avoided all indecency and hardship upon the King. If we hear of any thing in the Lords House that may do us mischief, we ought to take notice of it here—If "upon the whole Matter" you agree, it is to make a new War for the sake of *France*—The Lords have perused Monsieur *Ruvigny's* paper, importing our obligation to continue the League with *France*; how do you know but the Lords have agreed with you? Moves to remind the Lords of an Answer.

Sir *Thomas Clarges*.] Since *Garroway* spoke, is altered in his opinion by reason of *Ruvigny's* papers—Would have nothing to delay Peace, and would not agree with the Lords.

Sir *Thomas Littleton*.] Is tender of engaging too far in the business of the War. Let us keep ourselves as free as may be—Likes our own words better than the Lords.

Upon

Upon a Conference we may not agree upon "the whole Matter," because it does not appear we have had the same Matter as the Lords have had, without particularly taking notice of it; but he likes neither ours nor the Lords—Would take our rise singly from the King's Speech, relating to somewhat of the *Dutch* proposals, singly granted from the King's Speech, which clears objections from agreeing with the *French* proposals; that rock may be so avoided, the King's Speech mentioning nothing of the *French* paper.

Sir *William Coventry*.] You cannot alter your own words, but you may mend the Lords Message, with adding, "the King's Speech."

The Lords, at a Conference, agreed to leave out "the whole Matter."

Debate on the Commitment of Sir *Thomas Byde* and his servants by the Board of Green-Cloth.

Sir *Winston Churchill*.] If any Gentleman is dissatisfied about the proceedings of the officers of the Green-Cloth, the King's Counsel will give them satisfaction how they proceeded, and why; (*reads what was sworn before them.*) Sworn by the King's Purveyor of fish—He stayed at Sir *Thomas Byde's* manor of *Ware*; from *Cambridge* he trunks the fish there customarily at the great bridge; the river is a common, navigable, free river; the trunk is a swimming, not a standing trunk, fastened by a rope to the land of Mr *Chaddock's* lordship, and there it is landed, and is no detriment to Sir *Thomas Byde*. This has been time out of mind accustomed. *Byde* extorted unreasonable sums, and extorted twenty shillings for this turn, *pro hac vice*. *Byde* reckoned two shillings and six-pence a turn, and this was in arrear; he beat and wounded the Purveyor's servants, with armed men, that did it not legally, but they were *Byde's* household servants in obedience to his command. The trunk was dragged from Mr *Chaddock's* land and put into the river; the Purveyor complained, and *Byde* justified his servants; they would have come to a trial with him. *Byde* said, "they were a company

company of impertinent fellows, and he would do himself right." He (*Byde*) was of the Privy Chamber, and sworn, and so was one of the King's servants; therefore it was proper for the Purveyor to apply to the Green-Cloth—He cannot forget a case of a Lady that longed for fish, but her husband had no mind to pay for them at *Gravesend*; you know what you did with that Governor *—Is informed that there are great impositions upon barges and boats that pass that river—If he does it upon the King, he will do it upon the subjects; and this manner is held of the King. Lord *Fanshawe*, the former proprietor, never urged this. The Green-Cloth thus took notice of it; they have done no more than formerly, and according to their oath, "for the profit and honour of the King, and service of the household." There is a record, that formerly, when the Members of this House used to eat in inns in great companies, the King's Purveyors stopped their dinners. They sent their Serjeant to seize these Purveyors—Counting-house Law is this: The servants must come to account for what they have done in trust below stairs, relating to proof above stairs in point of misdemeanour—*Byde* refusing to go to law, they sent a warrant for him to answer matter of fact; it was rather as a letter than a warrant. He came to *London* at his ease, and then went to my Lord Chamberlain, who told him there was no protection in this case. Then he came before the Green-Cloth with Counsel, who offered his title, and said, "That the Purveyors, under pretence that it was for the King, served Fishmongers in *London*; but as to the King he intended honour and duty." *Byde* was dismissed, and, he believes, gave five pounds fees, as usual—How he agreed with the Messenger he knows not.

Sir *Thomas Byde*.] There was always a duty paid, a duty to the Lord of the manor, from Queen *Elizabeth*, for fish for her own table, as he can prove—Knows not that the person was the King's Fishmonger; there was no fish in the trunk, nor a blow struck, nor wounds gi-

* See p. 373.

ven. Can show out of the Exchequer, that in Queen *Elizabeth's* time that duty was owned—They would not go to law with him; they used him civilly, indeed, for all his servants were brought away; he desired the affidavit of the information, but could not have it; he never saw the Lord Chamberlain, as pretended; he got to be of the Privy Chamber to exempt him from juries in *Middlesex*; he has witnesses, and will prove every thing he has said; did petition for liberty of tryal by Law to Sir *William Boreman*, &c. They found fault with the title of the petition, which was only not enumerating the Duke of *Ormond's* and the rest of the Lords names.

Sir *Winston Churchill.*] He has told you what *has been* sworn, and Sir *Thomas Byde* only tells you what *will be* sworn.

Sir *Thomas Lee.*] Takes the case of Sir *Thomas Byde* as the King's servant, and he must be subject to the Laws of the Household; but whether all his servants, that were sent for, are under the Law of the Green-Cloth, would know.

Mr Secretary *Coventry.*] *Byde* has acknowledged himself "servant to the King," and he is not for his "avoiding the service of his country by being upon juries,"—to be servant to the King and do him no service—The Green-Cloth is a Court for tryal of life, and if the Green-Cloth judges a thing not within their jurisdiction, an appeal may be to *Westminster Hall*.

Sir *Nicholas Carew.*] If he sued, he might be served as the Woodmonger was at the Porter's Lodge—If the Green-Cloth has power to send for all the King's servants, would know it.

Sir *Winston Churchill.*] *Carew* honoured us so far as to come to us on the behalf of his tenant; the complaint was from two Justices in person, for destroying Game and keeping an Alehouse; but, for *Carew's* sake, they did not so much as they might—The Green-Cloth cannot be exempted from Law in the common condition of other men.

Sir *Nicholas Carew.*] But one Justice came, and not two, and he might have punished him without troubling the Green-

Green-Cloth; the person complained against is no Ale-house-keeper, he lives in his Manor House, and he may keep greyhounds, and the Justice that complained is the greatest Poacher in the world.

Mr Attorney *North.*] Knows not, in any of the King's reigns, less Grievance from the Purveyors than in this. If the King should search Records, he might disturb many things. This case is of seventy years possession of right in the King—If *Byde* will go to Law, he may, if he pleases.

Sir *John Monson.*] The Green-Cloth extends not above twelve miles from *London*, and this is twenty. The Messenger had a penny a mile, (*Richard II.*) and *Byde* ought to pay but twelve-pence, at that rate—Will say something for the honour of the Green-Cloth: Sir *Stephen Fox* turned out some servants upon his complaint.

[The matter was referred to a Committee.]

Thursday, February 5.

A Bill was read for the better conviction of Popish Recusants, "importing a Test, the Constables to present persons suspected, and they to appear the first day of the next Term, Sessions, or Assizes; if they appear not and subscribe the Test and Renunciation, to be convicted to all intents and purposes. At *Easter* and *Whitsuntide*, warrants to Constables and Churchwardens to present Papists, or reputed Papists, which they are to return to the next Quarter Sessions, and if they appear not, the penalty precedent. If the Justice sends no warrant, to forfeit, and likewise the Constable forfeits, &c. and the Clerk of the Peace; the moiety to the King, and the other part to the Prosecutor. Justices shall estreat the Record of Conviction into the Exchequer. Upon taking the Test, conviction shall be taken off, and no *Certiorari* till conviction be taken."

Sir *Thomas Littleton.*] Would have a Committee to prepare one or more Bills—Would have this take place first, and have a second reading to-morrow.

Mr *Powle.*] This Bill is of great weight, and deserves very good consideration; therefore so much speed in the reading it again is not the way to do it—Would not have it read till *Monday*.

[The Bill was ordered to be read a second time to-morrow.

[The

[The House then resumed the adjourned Debate of the vote relating to the Duke of *Buckingham*, whether the Lords concurrence be desired therein.]

Sir *William Coventry*.] Finds that the Duke of *Buckingham* has not mended his manners since he was here; he justifies the *French* League, and continues his vicious practices—We Country Gentlemen cannot have information, but by common fame, and he hears it, and would proceed to his removal.

Sir *Nicholas Carew*.] Hopes you will not defer it to lose more time—Would have us go to the King, without the delay of the Lords, for we must have Peace, or War, suddenly, and this Duke is still a favourer of the *French*.

Lord *St John*.] Reckons this to be a “Grievance,” and you usually, in such cases, go without the Lords.

Sir *Eliab Harvey*.] Will you leave this business here? If you go up to the Lords, it is the same thing; you must go up with reasons, or an impeachment.

Sir *Joseph Tredenham*.] The Question is, whether you will address the King alone, or desire the Lords concurrence. Is as much for easy ways as any man; is fully satisfied, that the old parliamentary way is the most easy, confirmed by this declared opinion, “that it is not for the honour of the House to address the King, without some matter of fact to which he should be heard, before you sentence irrevocably.” Should you pass by the Lords, would it not give cause of apprehension? We desire a thorough reformation, and it is impossible to do it without them. Let every man make it his own case; alter the scene; the Lords may assume the same liberty against us—We aim at taking away those fears we are under—It is from our Resolutions here, that inferior Courts are guided at *Westminster*—The Lords have already enquired into the immoralities of the Duke, and his counsels, and we have no reason to doubt their concurrence, which the King will think more valid—He does declare for a thorough reformation, which we shall never be able to do this way. Records are full of precedents of judgments reversed, when parties are not heard. It may serve a present

present turn, but never reformation. By taking the Lords concurrence we may make our Address as valid as we desire; and therefore moves it.

Lord *O'Brien*.] As to the objection, "that we disoblige the Lords," we leave the thing with the King, in his power whether he will, or will not, remove him; and they may do the same by any Commoner.

Sir *Charles Harbord*.] Moves to read the Vote of Removal from Employments.

Mr *Boscawen*.] It might be a reason at that time to go without the Lords, he having greater power then, than now; he being more known to them than to us, and no danger of a defect there.

Sir *John Monson*.] Whether we prevail with the Lords, or not prevail, is not our business—If we may believe without-doors discourse, whilst both Houses desire Peace, he labours the contrary—Would go without the Lords.

Sir *George Reeves*.] You have before you a Peer of the Realm—There is no reason, in the Preamble of the Address, for his removal, which the King will look for. Would either have the Preamble mended, or go by way of the Lords, and not, like the Long Parliament, defame a great man, without reason.

Mr *Bertie*.] Would have Dr *Williams* heard, who accuses him.

Sir *John Coventry*.] Some Gentlemen are for Impeachments; we have not had good success in them hitherto.

Mr *Swynfin*.] Thinks it not only a conveniency, but necessity, to go to the Lords; because part of the Address takes away that Privilege from him as a Member of that House. If so, the Lords have reason to complain of a breach of their Privilege; a person, so incapacitated, can he come into the King's presence in full Parliament? It touches every Member, in both Lords and Commons House (which, if there is an incapacity upon them of coming into the King's presence they cannot be called to) it is every man's Privilege. Precedents there are, but not fully. The King agreed to remove some, "except

cept they were Lords necessary about his person." Can it be imagined that in reference to the King's person, and their employment, they are not considered there as well as here? Therefore would have the Lords concurrence.

Sir *John Duncombe.*] Thinks it severe, without being heard—Thinks the Precedents are of dangerous consequence. His reason is, the Duke is not sufficiently heard of what fame accuses him of; if in order to hearing, to go to the Lords, or to remove him from the Lords House, that being his inheritance, the King cannot remove him.

Sir *Robert Holt.*] Is for removing evil Counsellors, and the Duke in particular. This is the way to save him, for the Lords will resent it as a breach of Privilege—The Lords have interceded for a Peer's Writ, and his imprisonment, in the Earl of *Arundel's* case.

Sir *Charles Harbord.*] It is said, we are a Grand Jury, but we are more than an hundred Grand Juries; they may present any man upon their particular knowledge, and find an inducement to bring a man to judgment; yours now is by way of judgment, and for a thing that the King cannot do—He can do no otherwise than impart it to the Peers; you will else have a quarrel; therefore pray consider it.

Mr *Sacheverell.*] "Removal" seems to touch upon the Peers; if you go alone, it is not to remove from freehold, and can the King remove him from it? You cannot; both Lords and Commons together do—The urging of proof calls your judgment already against *Lauderdale* in question.

Mr *Waller.*] It is better for the Duke to go without the Lords than with them, but speaks what is good for us to do. Old men love old ways; we love them, and cannot help it—*Lauderdale* being a Commoner, it was proper to address the King for his Removal; and supposed then it would be a stop, as to this Duke; you judge, in this Duke's Removal, *de voce et sede in Parlamento*. Every part is some of the whole; you go not to the King to examine the matter, but for an execution of our judgment—The Commons, in the case of *Stubb's* book, in
Queen

Queen *Elizabeth's* time, sent a message to the Lords that he deserved to lose his hand for writing it. The Lords took our Impeachment of him well, but not of judgment of *Stubbs*, that being properly theirs—There are two ways to make a thing firm, by Act, or by Ordinance, which in the Long Parliament was a mock thing. Archbishop *Laud's* head was taken off by one. An Ordinance is properly when the King and Parliament agree of a thing *pro tempore, consensione gentium*. That Law was as ancient as the creation. God needed not have given judgment again *Adam*, for he knew hearts, but for our examples of justice—He cannot be for these new ways, and beseeches you to excuse him.

Colonel *Birch*.] *Waller* tells you, “He has heard this of *Stubbs* from old men”—Would have you go up with the Impeachment, and that the Duke deserves to lose his places—Had this been “removing him from his place in the House of Peers,” would have been against it; but what you say against your Vote, as this is, is an arraigning of your Vote—This removing has been done, and never knew the House lose any of these Privileges.

Sir *Robert Howard*.] *Wheeler*, in Lord *Arlington's* case, was for a summary way of proceeding; in this not—When you do it in *Lauderdale's* case, and not in this, will any man say you will never do it again? Could never understand “common fame,” either from *Selden* or *Rushworth*, by their distinctions—If the Lords will be angry, you destroy the judgment you give here; but he has not found this from the Lords; it pinches not in such extremity, as is said—Strange words you have heard of, that the Duke of *Buckingham* should say, and the Lords House is the place to make oath of them for proof. You had express proof in *Lauderdale's* case—These accusations relate to persons that will prove, and the Lords House is the proper place for it.

Sir *Thomas Lee*.] The consideration of your honour weighs most with him—It sticks with him—You lay a foundation by this distinction in the case, that the King shall hereafter, in all his weighty affairs, employ none but

but Peers; for the great argument of your judgment, *Lauderdale* is as capable of being chosen for a borough, and to serve here, as *Buckingham*, to be debarred of the King's presence, in the Lords House; in full Parliament; and therefore would not go by the Lords.

Col. *Strangways*.] Would have no jealousy nor umbrage betwixt the Lords and us—Would not have the Commons only of that opinion.

The Question being put, that the concurrence of the Lords be desired, it passed in the negative, 142 to 124, and the Vote was ordered to be presented accordingly.

Friday, February 6.

Mr Speaker reported the King's Answer to the Address from both Houses, concerning the Proposals from the *Dutch*, to this effect: "That he cannot better thank you for your Advice than by following it; not doubting but you will enable him to do it." To the Vote from the Commons relating to the Duke of *Lauderdale*, "That he will consider of it, and return a speedy Answer."

Sir *John Morton*.] You have two good Bills before you, Religion and Property; let them both go together, and take which you will first.

A Bill to prevent illegal exacting of Money from the subject, was read the first time.

Sir *Nicholas Carew*.] Moves to take into consideration the business of detaining the Duke of *Norfolk* * beyond sea.

Sir *Thomas Lee*.] To Lunatics the King appoints Guardians, but they are now appointed to this Duke by another; it is a way he may be kept always a Lunatic, and never inspected, and so be kept beyond sea.

Sir *Edward Massey*.] He was a good proficient in the Protestant religion, and they have made him mad, and

* This Duke of *Norfolk* (the Earl of *Arundel*'s son) who was restored to the Dukedom on the Petition of the Peers in 1662, had fallen into a state of lunacy while he was with his grandfather in *Italy*, during the

time of the Usurpation. And, notwithstanding this Debate and the Address that followed, he was probably still detained abroad, as he died at *Paris* in 1677.

kept him mad, for being so. They kept him at *Brussels* in ragged breiks and drawers.

Mr *Powle*.] The King may grant the guardianship of a Lunatic, without power of revocation; but having *lucida intervalla*, it is revocable.

Sir *Thomas Higgins*.] Though he has *lucida intervalla*, yet sometimes he is so transported with fury, that none can come near him. He never had inclination to Protestantism, nor [ever was] bred in that religion. Sir *Arthur Haslerigg* would have had him over to marry his daughter; there was no attempt of removing him but that. He is kept in a town famous for physicians (*Paduæ*) under good discipline, and is carefully looked to.

Sir *Robert Howard*.] As for this unhappy Peer he can bring Members, and credible persons, to prove him as much out of order as any man. He is as well attended as any of his quality in *England*; no man of his quality needs a decenter or handsomer equipage. He is a sad spectacle, and in some measure ignominious to his family were he here, and the place where he is, is a more probable place possibly of his cure.

Sir *Edward Mafsey*.] He was a Protestant when his grandmother sent him to *Brussels*. He told *La Neere* "he was not his grandmother's beloved son, and was ill used, and then sent into *Italy*."

Mr *Sawyer*.] Affirmed, that, in the case of Lunacy, the King might grant the guardianship irrevocably; in Ideocy, the King may grant away lands for life; in Lunacy, the King appoints guardians, for the benefit of those that shall succeed the Lunatic—If he be detained, the cause appears not before you, and you are about an Act of *Habeas Corpus*, and therefore it is seasonable to enquire after it—But one way to restore him, is the Lord Keeper's view, and if he finds him of sane memory, and capable, his estate is restored: Therefore there is cause for "an humble Address to the King, that he may be brought back."

Colonel *Strangways*.] It is a great sum of money, to maintain his quality, that goes out of *England*—Could have

have wished he had had Protestants about him, before he was mad—There is all the reason in the world not to keep a man out of *England* against his will; it is dangerous—A man of a noble fortune, and twenty-four or twenty-five years out of *England* for the recovery of this man; it may be by change of air at home God may restore him—Would have the Question put, “that an Address may be made to the King to send for him.”

Sir *Charles Harbord*.] He has known this Lord from his youth; he believes he was instructed in the Protestant Religion. He did accompany his grandfather and him into *Flanders*, and left them at *Antwerp*. Two years after, he went to *Brussels* to *La Neere's* house, his Tutor, where he found him sitting in a chimney-corner, and a nasty cloth laid before him; he saw him then somewhat amiss; he found him docible for literature, but advised care to be taken of him; from thence he was carried into *Italy*, and was then much distracted—In some years, one hundred thousand pounds *per annum* are spent abroad upon young Gentlemen in their Education, and some receive great harm by it in their Religion and Levity; but this money spent abroad upon this Duke is the worst objection.

Lord *St John*.] He saw him in *Italy*, and he desired to return into *England*, being detained prisoner, and excused his incapacity of entertaining him, and the Gentlemen with him, according to his quality, by reason of the shortness of his maintenance.

Sir *John Monson*.] That Lord was a Petitioner to both Houses, in the Convention, for his restoration to his honour, and there is no mention of his lunacy. Women, they say, are good for that cure; it may be, a wife may be so, and moves for his return.

Mr *Waller*.] People tell you what they know, in order to inform your judgments; he will tell you what he knows—When he was at *Padua*, the Earl of *Arundel* desired him to give his judgment of his son; he liked not his company in his *lucida intervalla*. The woman in the house, that bred him up from a child, told him,

they were constrained to use force to him — Lord *Arundel*, having Mr *Henry Howard** at *Padua*, told him, “This young man I have great hopes of” — The Earl Marshal (that now is) had great enemies in the Rump, and would have had him home, as now you would have; he then attended the Committee (though not of it) who were to consider his coming over — (the design was to marry him to *Haslerigg’s* daughter) but when they understood that his estate was settled on Mr *Henry Howard*, they proceeded no farther in it — He tells you what he knows, do as you please.

Sir *Robert Southwell*.] In 1661 he passed through *Padua*, and being acquainted with Mr *Bernard Howard*, he lodged in his house: He saw nothing in the Duke, the several times he saw him, but the effects of perfect madness.

Colonel *Birch*.] He appeals to you, if any man before this, born in a cold climate, was ever sent into a hot climate to be cured of madness.

Resolved, That an Address be presented to his Majesty, to desire him to appoint some persons to bring the Duke of *Norfolk* safe into *England*.

Saturday, February 7.

A Bill for the relief of poor Debtors [was read the second time.]

Mr *Garroway*.] It is a nice subject to speak against a business of charity, but vexatious suits *in formâ pauperis* made a Gentleman spend seven hundred pounds. In *Oliver’s* time, when a Gentleman was imprisoned, he called one hundred and fifty pieces, which he had in his pocket, “his working tools for play;” and so swore himself out of prison by it — Would have persons in prison for debt, and purchasing land in other mens names, considered, and would have a Committee to draw a Bill for prevention of these things, and to be read in a full House.

* Afterwards Duke of *Norfolk*, on his brother’s (this Duke’s) death, in 1677. He was bred a Protestant, and, Sir *Edward Walker* says, “had no superior in all respects, of birth, person, wit, learning, and height of courage.” He died in 1683, and was grandfather to the present Duke.

Colonel

Colonel *Birch.*] The disease is this : Labourers are come to two shillings and six-pence a day, extravagant wages, and some drink all, and bring not home to their wives and children twelve-pence on *Saturday*, and they tell us, “our wives and children you must maintain.”—Is not against charity, but there must be a remedy for men of estates that lie in the King’s Bench, (now almost become a town.) If that power be in persons, let them be held to hard labour, and switched soundly, and they will not stay there long; and have such chastisement as they ought, but not be sent beyond sea, but scoured there, and you will remedy the thing.

Sir *John Monson.*] Would have this Bill withdrawn, and a new one upon Debate of the House, that there be no surprize.

Sir *Thomas Lee.*] Charity goes a great way upon another man’s charge, and if the Question of committing it were put, would throw it out.

The Speaker.] If you reject a Bill by a Question, nothing of the same nature can be brought in again this Session; but you may withdraw the Bill in order to bring in another upon Debate.

[A Bill was ordered to be brought in accordingly.]

The *Habeas Corpus* Bill was read the third time.

“Imprisonment beyond the seas, out of the reach of *Habeas Corpus*, declared illegal; persons offending incapable of bearing offices, and receiving legacies; penalty upon the King’s Bench for offence in refusing, &c.”

Serjeant *Maynard.*] A Clause this that will occasion great trouble, being very general, the person aiding “incapable of having any gift, or legacy, &c.” You put a proof upon, it may be, two Mariners, forty years after. You must put it to a very short time.

Sir *Thomas Lee.*] *Maynard* is mistaken; it is “from and after conviction,” and then, *caveat emptor*—The House is satisfied, and moves an Amendment, the Bill having no Preamble, which he proposes—“Forasmuch as no subject can be transported without his own consent, &c.”

Mr *Powle*.] Is not much acquainted with the Bill, and, if he mistakes, begs pardon. Something, that, instead of preventing transporting men, does establish it, by the last Proviso, viz. "That the Judges may have power to transport for felony, to be tried in *Scotland*, &c. where the offence was committed." As the Law now is, no man can be tried but in the proper county.

Mr *Boscawen*.] It is a great mistake. The Law, by this Bill, is left as it was.

Mr *Garroway*.] *Powle*, speaking against this, speaks for throwing out the Bill. Do you mean this should be a place of refuge for all villainy done beyond sea? The Law is left as you found it.

Mr *Hampden*.] To "the Proviso for felony committed in *Scotland*, and transporting to the Plantations." The Justices of the King's Bench have no such power now; and if an allegation lie against a man, shall that be an offence? If this refer to a future trial, it is said, he has committed an offence, and that is judged.

The Speaker.] This is not an enacting Proviso, "only it shall be lawful for the Judges, &c." The Law remaining as it was before, any thing notwithstanding, &c.

Sir *Richard Temple*.] The King's Bench cannot judge whether an offence has been done in the Plantations, or no, and therefore it is not safe.

Sir *Thomas Lee*.] Thinks that inconveniency less than the "transporting people"—Would leave out the Proviso.

Mr Secretary *Coventry*.] If you leave out the Proviso, here is a failure in Law, against a maxim; they will have trial nowhere.

The Proviso was left out,

Sir *Charles Harbord*.] Here is more in the Preamble than in the whole Bill besides, proffered by *Lee*, that brought it in, and would not admit it.

The Bill passed, and was entitled, "An Act to prevent the illegal Imprisonment of the Subject."

In a Grand Committee on the Grievances of the Nation.

Sir *John Hotham*.] Thinks it his duty to open the most considerable root of all our Grievances—This is a monster

monster that will devour all your liberties and properties. Tigers and lions, in time, become insupportable to peaceable neighbours—Must be concerned; there is a time for all men to speak, and now, when our liberties are at stake, thinks he should not do his duty to God, his Prince, or country, if silent—Will begin with the standing forces of this nation. The subject is worn threadbare; if quartering in public houses against their wills, it may come to private; perhaps this is the last time of asking—He speaks, though not with oratory—The best way of speaking here is with integrity—He sees how the eyes of the House are upon such as do otherwise—Desires you will vote, “that the standing forces now in this kingdom are a Grievance.”

Sir *Eliab Harvey*.] Seconds the Motion.

Mr Secretary *Coventry*.] The putting a Question general, “all standing forces a Grievance,” he is against. You cannot keep your castles without them at sea, and sure that would be a Grievance. The horse-guards, in the rising of *Venner*, defended you; in your late Act you gave one million two hundred thousand pounds towards the maintenance of those guards. He has order for stating the accounts of the new-raised regiments, and paying the debts, and orders, when Peace, for reducing them—Are you assured that the *Dutch* shall never land, and sure that you shall always beat the *Dutch*? Who can give you such a demonstration? No complaints were harder upon any of the King’s Council than upon the King himself—If a disorder, let the thing lie where it will, by such a vote, in general terms, you expose your fortresses and castles to any enemy.

Sir *Thomas Lee*.] “If the rising of *Venner* had not been, those guards had been disbanded,” says *Coventry*—Believes no Prince better in the hearts of his subjects than the King, therefore no need of these. In the militia of *England* lies your strength and safety; wishes that these standing forces are not an occasion that the militia is so slighted, these forces making them so little necessary—This terror is against the Law of *England*, and no terror can

be but by them—The army, by rules of War, are bound to obey their superior officers ; if commanded to break your Law they must do it—Pass therefore the vote.

Mr Secretary *Coventry*.] One million two hundred thousand pounds were given by the Parliament for maintaining the guards and *Dunkirk*.

Mr *Boscawen*.] By the same reason that the King parts with *Dunkirk*, he may part with his guards.

Sir *John Hotbom*.] The King, at the head of his Laws, is a brave Prince, and long may he live!

Colonel *Sandys*.] Is well pleased at the affection of the people to the King, but consider how to prevent the same risings again against the King—Would have so much force as to keep the King from tumults, and disband the rest.

Sir *John Mallet*.] Would have the militia to be the King's guards by turns.

Sir *Robert Carr*.] Before you put a vote, would read your former Address.

Mr *Garroway*.] Hopes of being rid of all these, and at the same time hears of established guards. In all his reading has found that these established guards have been the ruin of most Princes ; you have been told of all their violences, bloodshed, and money raised by them—We are to establish none, especially when told so from the bar, when intended for present necessity ; is not the nation exhausted and in danger of dearth ? He hears good news of Peace, and halcyon days to enjoy our rest ; therefore is for such an Address, “ that the present supernumerary forces may be disbanded.” If there be any prejudice, fears it from such persons as are headed by men of those dangerous principles—Hopes the King may live long—Fears, not much happy days after him—Desires to die before him—Moves for the Question.

Mr Secretary *Coventry*.] Did not say, “ the guards were established by that Act, nor *Dunkirk*.” *Garroway* says very well, “ leave it to the King.” He can remember crowns and heads of Princes lost for want of guards. Remembers the rising of the apprentices in *London*,

don, and his losses; but rather than give any jealousy, will go as far as any man to disband them.

Mr *Garroway*.] His losses have been as much, for his concern, by these apprentices rising, as any here—Giving money is to establish these guards. Would have *Coventry* reminded, that such Counsellors as are now were the unlucky men that gave occasion of the apprentices rising.

Mr Secretary *Coventry*.] Would have *Garroway* name “such Counsellors,” if he knows any.

Mr *Garroway*.] Hopes, if *Coventry* be innocent, he will not excuse all. We have named divers, *Lauderdale*, *Buckingham*, and *Arlington*.

Sir *Thomas Meres*.] What this standing force is, is well known, and it is dangerous to make a definition. He did not find, in 1662 and 1663, any exception made against these moderate guards about the King. This does but repeat what was the vote the last Session, a “Grievance, and the mother of our Grievances!” Would be rid of them, whilst they are Grievances, for under the notion of ten or twelve thousand, as many more may be—Since we find them ill for the people, and more so for the King, every man ought in conscience to represent it to the King.

Sir *John Cotton*.] Is not for removing “necessary guards.”

Mr *Russell*.] Is glad of this Debate. Without betraying our trust, we must vote these “standing forces a Grievance.” There are still designs about the King, to ruin Religion and Property. Public business is the least of their concern. A few upstart people *making bay*, with the Proverb, *whilst the Sun shines*, set up an army to establish their interest; and he would have care taken, for the future, that no army be raised for a CABAL-Interest—It was said, the last Session, by a Gentleman, “that the war was made rather for the army, than the army for the war.” This Government, with a standing army, can never be safe; we cannot be secure in this House, and some of us may have our heads taken off.

Sir *Robert Howard*.] If the thing be rightly understood, we are all of a mind. It is an easy common-
place

place to rant against a standing army. There is no argument for it; but a difference is spoken of betwixt “armies” and “guards.” Though the King has the entire love of his subjects, yet, of late days, we have seen disturbances; but to take all away by a vote, knows no reason for it. We see how ready the King is to comply with this House; he has wholly trusted this House, and the King to have a design, by the army, to contradict it, cannot be imagined, should this House wholly lose their effect—Therefore moves, that there be a distinction, in point of time, that all raised since ***** may be disbanded,” from which to separate all the rest, reducing it to the guards only.

Sir *Henry Capel*.] Thinks himself happy to harangue against “a standing army,” which he is satisfied is of no great use in War or Peace. If *France* was divided into Provinces, as formerly, and that King reduced to some few about *France*, but being now Master of all that kingdom, and increased in territory, we have no probability to conquer that now; nor *Holland*, so united into Provinces, that every town is able to hold out against an army—What use have we of these forces at home? None, but in case of invasion; and in that case we should trust our safety to such as we know—No town will be proper for trade, and no considerable Merchant will be, where there is a garrison—A King of *France* said, “He was *bors de Pairs*, free from his estates”—Our strength is in our shipping, and hopes the King will intend that—Moves upon the whole, “that the new raised forces, from such a time, are a Grievance,” and seconds *Howard*.

Sir *Thomas Lee*.] Never heard better premises, but expected not such a conclusion as *Capel* made—You are now taking away umbrages, and representing to the King safety to him, and his people, in quieting their minds—Every limitation of these forces may have as much influence, as the Preamble of the Act of 1,200,000*l.* for the payment of the guards, &c. The use of limitation is respite, that those disbanded may still have pay, though as common soldiers; first breed them in the guards, and then a company

pany for them; these are the people you must expect your ruin from—From *Henry VIIIth's* time till now, no guards, and yet there were tumults—It was the falling out of the soldiers, and the subjects hearts, that brought in the King; one knows not how they may turn again, therefore would be rid of them.

Colonel *Birch.*] Told you these forces were not able to serve abroad or at home (*and repeats Capel's discourse of the King of France*). The King of *France* is like a great glass bottle; as long as the Sun shines upon it, it makes a glorious show, but when a man can come to it with a crabtree-cudgel, he quickly breaks it—Agrees that these forces are not serviceable to conquer there; but whether for the interest of the King and kingdom to be kept up? People never desired more the King's life than now—He was ashamed of the disturbance of *Venner*—When the fire was, and the people cried, “arm, arm,” and there were reports of ten thousand men rising, it came to nothing, but “God bless the King!”—The greatest unkindness to the King is to keep these forces up; they are too many to make the people love him, and too few to protect him. As forces beget jealousy, so jealousy begets forces; fire heat, and heat fire—It was said at the bar, “there was a necessity of some for *Sheerness* and *Plymouth*.” Citadels, it seems, are pulled down in *Scotland*, and built up in *England*; strange advice! Would he, for his life, destroy the King and kingdom, he would have such places fortified as *Chatham* and *Plymouth*—Will it not be as much for the enemy's end to land at *Battel* in *Suffex*, as there have been found from time to time these things in prospect?—We get no good, nor the Protestant religion either, to see the Queen go to *Somerset* house with guards—This army, though of but fifteen hundred, is able to make the kingdom jealous; hopes, by this time, the King sees no use of these citadels—Moves, “that the standing forces may be disbanded.”

Sir *John Bennet.*] Pregnant steps to Rebellion in this House, as he has never heard the like before. In *Huntingdon* Election, a letter was avowed, signed, “*John Barnard,*

ward, "Come and bring all our friends to deliver us from bondage"—Thousands came with these intentions, and they cried, "Mutiny; we with our Hobnails will beat the Gentlemen out of the country."

Sir *Nicholas Carew*.] *Huntingdon* Elections were never without tumult, and this last Election was without any; no man killed—Evil Counsellors depend upon that army to have made a whole revolution—They say *Plymouth* is well fortified by land, and not by sea.

Colonel *Birch*.] The Letter of Sir *John Barnard*'s shall be reported in time, in a few days, and hopes no danger in the interim—It cannot be understood that he would have the island at *Plymouth* quitted; an enemy might get in, and chargeable to get him out; but these forts are in the wrong place, as the man said by his armour, when he was hurt. If any body mean you ill, these forces are like bad servants, made thieves, whether you will or no—If that bottle happen to be near the King, and a Papist get into it, we should set that bottle as far from the King as we could—Doubts not but the King will use these forces in *Ireland*, and the Pensions may be employed in payment of these soldiers; this may be a motive to it; these forces of so little use in one place, and so much in another—Hopes the King will be advised to disband them.

Lord *St John*.] One said in *France*, "though *Richlieu* was dead, he had left freemen and apprentices in his shop, that would keep up the trade of arbitrary government there"—The Counsellors now look to set themselves up by this army and guards; the money spent upon them might have made us masters of the sea.

Sir *John Monson*.] Occasionally mentions the "Articles of War."

Mr Secretary *Coventry*.] Having so often passed his word about those "Articles," wonders they should be now urged.

Sir *John Hotbam*.] Dr *Arris*, a Member of the House, told him, they were read at the head of a company in *Hertfordshire*, the last day we sat, the last Session, and he

he told him then he would have done the House great service to have told the House so much.

Dr *Arris.*] Avows it.

Mr Secretary *Coventry.*] There is no such thing under the Great Seal, nor order for doing it, he assures you.

Sir *John Hanmer.*] Some were read, but not all; they made use of them to keep them in order, and they were only such Articles as were agreeable to Law; the rest to be made use of beyond sea.

Sir *William Bucknall.*] Makes a relation of *Ireland* (of which hereafter) and gives an account, how, upon occasion, going to wait upon Lord *Clifford* (Treasurer) he was brought into an outward room by a page, and being there heard loud talking in the next room, Lord *Clifford* often saying, his Majesty would never be brought to it; and some time after Lord *Arundel* of *Wardour* * came out. Lord *Clifford* seeing *Bucknall*, was much surprized, and, after many reviling words, as calling him "dog," and the like, asked, "who brought him thither, and how he durst come there?" He answered, "his page brought him." Some time after, he met Lord *Clifford* at *Tunbridge* wells by accident, and there my Lord proffered reconciliation and oblivion of what was passed—He does believe that the discourse betwixt the two Lords might tend to setting up Popery.

Sir *Thomas Littleton.*] We made this vote in time of War; we may much more do it now.

Mr Secretary *Coventry.*] If you put it "all standing forces a Grievance," either the King must be abandoned, or maintain what you think "a Grievance;" but pray disbanding the "forces raised for the war." The Guards may preserve his person, and not endanger the nation.

Mr *Bennet.*] If you leave "the Guards" out it will imply a countenancing of them, and they are thought a Grievance about town—He will first disband "his army," and by degrees may part with "his Guards."

Sir *Robert Holt.*] The *Prætorian* Cohort and the *Turkish* Janizaries have both taken down several Emperors.

* A Roman Catholic Peer, afterwards impeached by the House of Commons in 1677.

Sir *William Coventry*.] Is against the word "Grievance" in the Question; it is ambiguous; that generally and parliamentarily means "against Law," but as "burthenfome and inconvenient," agrees. The King may raise forces; no man will say, it is against Law—Is against it specially. If you say, "the forces are a Grievance in general," when once people see that a man in a red coat is "a Grievance," bloodshed may follow—Thinks it universally concluded, "that the new-raised forces, with some effects of them, are Grievances." Thinks it the general sense of the House to take great caution not to let words pass here to countenance them. If the Act mentioned establishes them, they are established. Thinks it best when our vote carries something of our reason with it, and it may be most acceptable. With great submission, delivers a Proviso neither to countenance the old forces, nor countenance the new.

Colonel *Birch*.] Would avoid the inconvenience of red coats coming into towns, by the word "Grievance;" let none come there—Is against a "Standing Army" in the Question; a regiment or two cannot be said to be an army; therefore would not leave it so—Moves the Question "standing forces" (not extended to Guards) "a Grievance," not a general Question.

Lord *Obrien*.] Would have the thing cleared what is meant by "Guards"—The King of *France's* Household Guards consist of sixteen thousand. It may be we have taken the thing from thence—Would explain it.

Sir *Thomas Littleton*.] Possibly if we pinch the King so close in our Address on Standing Forces, he may do the same with us, it may be, "except (in his Answer) only such as are necessary for the sea ports and forts;" and so we become necessary to the continuance of those.

Mr *Sacheverell*.] Is one of those that would present the King with this vote, and leave it to the King, who, he believes, will retain no more than are absolutely necessary.

Mr Secretary *Coventry*.] When your vote comes abroad, it is the sense of the words, not of the House; "Garrisons and Pensions," all will be comprehended.

Sir

Sir *Thomas Lee*.] If he clearly understands what is "an army," are these "Guards" infinite, or not? Protests he knows not. Are they infinite? Let us know.

Mr *Swynfin*.] It is said the word "Standing Forces" extends to the "Yeomen of the Guard, Gentlemen Pensioners, and Guards"—But it goes to a greater thing, the word added by Sir *William Coventry* is "grievous;" for he takes the sense not so much in themselves, as for reconciling us here. When you have put that, then your Address satisfies every one, "that those forces, raised since such a time, be disbanded;" but it is no contradiction, as is said.

Sir *Thomas Littleton*.] You have been doing what you cannot answer to the House; you are to consider of "Grievances," and you call it "grievous;" you have not obeyed the Order of the House.

Resolved, That the continuing of any standing forces [in this nation] other than the Militia, is a great Grievance and vexation to the people; and that this House do humbly petition his Majesty to cause immediately to be disbanded that part of them that were raised since *January 1, 1663*.

[Mr Speaker reports, That he had attended his Majesty with the vote relating to the Duke of *Buckingham*, and that his Majesty had returned this Answer, "That he would take it into his consideration."]

Monday, February 9.

Mr *Cory*, Member for *Norwich*, where Mr *James Percy*, (a Trunk-maker) sometime lived, delivers a Petition in his behalf, desiring liberty to prefer a Bill in Chancery against some Members, who pleading Privilege, it cannot be done without leave of the House, and if not done, may be the hazard of his cause; many of his witnesses being aged, who can make out his descent as heir to *Henry*, the eighth Earl of *Northumberland**, and cousin and next heir to *Joceline*, late Earl of *Northumberland*, deceased †.

* This Earl being committed to the *Tower*, on suspicion of favouring *Mary Queen of Scots*, shot himself there, 27 *Elizabeth*. *Camden*.

† This, the last Earl of the family,

died in 1670, leaving an only daughter, who was married first to *Henry Earl of Ogle*, and secondly to *Charles Duke of Somerset*.

Mr

Mr Clarke, Agent to the *Northumberland* family.] Knows no person here concerned in this Petition but himself. He will not waive his Privilege, and has at this time a personal action against this *Percy*—The rise and proceedings of this man began in 1670. He waited on Lady *Northumberland* this summer in the West; she showed him a letter from my Lord Keeper, in the nature of a *subpoena*, from *Percy*, to answer a Bill against her in Chancery. He told my Lady, he would take care of it, and order an appearance. Coming to *London*, and meeting some Members at *Guilford*, they told him of a Petition to the King by this *Percy*, who pretended to be Earl of *Northumberland*; which was referred to the Masters of Request. It was a frivolous Petition, and the King thought *Percy* deserved to be whipped. Soon after, an appearance was given by Lady *Northumberland*, and a commission to examine witnesses in *Northamptonshire*, who testified that this *Percy* was son of a shepherd to Lord *Vaux*, born in *Bedfordshire*, and heard he was of kin to my Lord of *Northumberland*. The Bill was then dismissed with costs. Then *Percy* went into *Northumberland*, where, by the help of Counsel, he acquainted himself with Gentlemen, and brought one Colonel *Eyre*, once a fifth-monarchy-man, over to his interest; and some did care for him, out of favour to the family of the *Percies*, for the happy days the tenants had seen under them. He goes on the Northern Circuit and drops some declarations, and reports at *London* that he was acknowledged heir, and that the tenants had attorned to him; and then would put his claim of the title into the House of Lords. The elder Countess of *Northumberland* * put a Petition into the Lords House that he might be punished as an impostor. The Lords dealt justly, and at a Committee of Privilege he was to make out his claim, but did not do any thing suitable to his Petition. This Petition was in general terms; then he put another Petition, “That he was descended from *Henry*, the eighth Earl of *Northumberland*,” but not being able to make that

* This Lady, the mother of Earl *Jaceline*, died in 1704, aged ninety-six.
out,

out, a report was made; then he and his Counsel insisted on a day. Lady *Northumberland* proposed a fortnight. *Percy* stood upon a month, and had it, to make out his claim. He swore about forty witnesses, but not one to the purpose; only a Coachman and a Groom heard Lady *Northumberland* say, "I have lost a dear sister," meaning Sir *Richard Percy's** wife, which Sir *Richard* was never married: Sir *Thomas Hanmer* knew him at *Angiers*, where he was buried, who never heard he was married, and he left his estate to pious uses; had he had children, they would have been *impious* uses. The pretended father of this man was shepherd to Lord *Vaux*—But he will now come to Privilege, and reserve the rest for another occasion—He never heard that a Bill in Chancery was preferred against him by this *Percy*, but only a personal action he brought against him for saying, "He was no *Percy*, but a bastard." He had the honour to be trusted by both the Earls of *Northumberland*, and is now seized in fee-simple of some of the Earl's estate. He stood bound, at the last Earl's death, for forty thousand pounds, and this estate is for his security, and he is the first man in all the bonds—Now if you will think fit that the Gentleman, that brought in the Petition, shall lay him down forty thousand pounds, he will wave his Privilege.

Sir *Thomas Lee*.] Has often heard Motions here that Privilege might be waved, but it is not yours to be disposed of. You send for a man in custody for breach of Privilege. A Member has his writ of Privilege at Law. Let the person break your Privilege, and then judge of it.

Sir *Thomas Clarges*.] Fears that in long Parliaments Privilege is a Grievance—It is natural for the rich to oppress the poor—The Countess of *Northumberland*, and others concerned, could not wave Privilege—Wishes some short Bill—For a thing so innocent as this, knows not why the Member should not wave his Privilege

* Fifth son of *Henry Earl of Northumberland*, from whom this impostor said he was descended.

without troubling you—And a Bill that people might pay their just debts.

The Speaker.] It is not in the power of this House to take away Privilege settled by Law; but the Question now is, whether, a Bill depending in Chancery, the Petitioner's desiring examination of witnesses, which will relate to a Member's title, be a breach of Privilege—It is not for a Member of a greater Court to go to a lesser.

Mr *Rigby*.] In Chancery a man may have a commission to examine witnesses, in danger of death, *de bene esse*; if he have a right to examine witnesses, no breach of Privilege.

Serjeant *Maynard*.] What the Law gives a man you cannot take away without Law; examination of witnesses is a far greater Privilege than serving a *subpœna*; he must attend the office of Examiner: My right in many cases is a time*; money owed me, and not by bond, and may be barred in point of claim—That of *de bene esse* is a farther examination of witnesses, if they live, but if ever it comes of use, as obliging as any other evidence in Chancery, though not in other Courts—This is of more consequence than only a bare Bill by *subpœna*.

Sir *Philip Warwick*.] When there is a just reason, would be glad that any Member would wave it of himself; had this come originally before you, another case; but he was condemned as an impostor by the Lords—The same Legislator that said, "the poor must not be oppressed by the rich," said *à contra*.

Colonel *Birch*.] Your honour is concerned in this, and much; it was never intended that Law should be contrary to reason; a man to lose his debt for non-claim, and Privilege pleaded seven years, a hard case—Let the man proceed, and the Member will or will not answer, and you may then haply do something to avoid this inconvenience.

Mr *Wright*, a Lawyer.] If witnesses are examined in town, no great attendance is required; if in the country, any Solicitor may attend, and no inconvenience.

* *Sic MS.*

Sir *Charles Harbord*.] If no Member of this House, he need not come to you at all; you cannot hinder him.

Sir *William Coventry*.] Parliaments heretofore sat scarce so many days as they do now years. It has been well told you, "Privilege is right of Law," but thinks every man will concur not to extend it beyond Law; but thinks there is a great deal of difference betwixt a trust and a man's own personal right—Knows not what excess the thing may run into; it may happen, that four or five hundred Members may obstruct the whole course of Law of the nation—Knows not how it can touch the Member, being only in trust. This is so destructive a Privilege, that he knows not the end of it—Moves, that if the examination be only *in perpetuam rei memoriam*, the House will leave it to *Percy*.

Mr *Sacheverell*.] Would have no opinion at all given in the case; a judgment in it is of dangerous consequence—Would let the Petition lie, and if he stirs in it, then to consider it farther.

Sir *Thomas Hanmer*.] Gives the same account of Sir *Richard Percy* as before.

Sir *Thomas Lee*.] Moves to have the Debate of the matter of Privilege adjourned for a fortnight.

Sir *Thomas Clarges*.] Moves for *Saturday* next.

Mr *Powle*.] Your course is to judge of Privilege when broken, but not to make any general rule in this case—*Henry VIII.* in *Ferrers's* case, delivered by the Mace. Statute of Limitations thus answered, "any man may file an original, and so preserve his action, though he cannot proceed to action."

The Debate was adjourned for a fortnight*.

* This claim of *James Percy* had been laid before the Lords in the preceding Session, *March 28, 1673*, when their Lordships (as has been mentioned in this Debate) on his refusing to shew any probability of making good the said claim, notwithstanding a month's time had been given him; and having heard the elder Countess of *Northumber-*

land's Counsel, who charged him with being an impostor, resolved, "That his Petition should be dismissed their House." Having been thus rejected by the Lords, he was now carrying on his pretensions at Common Law, which he did with as little success, being generally reputed an impostor.

A Bill was read [the second time] “to prevent illegal exacting money from the subject, on any pretence, without common consent in Parliament; all such impositions declared utterly illegal, and may refuse such payment: Judged a traitor, and to suffer accordingly, for levying of them, &c. Refusing to aid in attaching such persons as shall so levy money, to incur a *Præmunire*.”

[Debate.]

Sir *Nicholas Pedley*.] You have *Magna Charta*, and *de Tallagio non concedendo*, and the Petition of Right, but not with penalties. Is not against enforcing this with penalties, but thinks those too high; that of 25 *Edw. III.* is full for Treasons, and would not multiply Treasons—Is not in love with that Clause of “force upon them, that shall levy it by resistance.” 10 *Edw. I.* that King had occasion to go into *France*, on a sudden, and there was raised, upon a tax on wool, somewhat more than was granted. *Bobun* and *Bigott* resisted the levying it by force. The next Parliament declared it “an illegal tax;” but, by intercession of Parliament, thro’ the King’s goodness, he pardoned them.

Mr *Garroway*.] Is for commitment of the Bill; what *Pedley* says against it makes most for it—Money was raised against the King, in the Rebellion, and hopes we may have power to resist that—He has seen a Book lately (*Dr Parker’s*) that says, “They are notorious Rebels that shall refuse such a levy made by the King before God:” so by these mens mouths, out of the Pulpit, you can never be safe—He thinks the Clause not so bad as represented—*Bobun* and *Bigott* were glad to get pardon for resisting an illegal thing—When once our moneys may be illegally taken away, we need not sit here.

Sir *Charles Harbord*.] When persons in Pulpits tell us, “they must be paid,” it is time to look about us—The penalties are too big.

Mr *Crooke*.] Treason is the highest penalty in our Law, and great caution ought to be in making a new one. There are customs of “levies” at Common Law—Corporations may levy—*St Albans’s* case, when the term was there—Commit the Bill, for due consideration.

Mr

Mr Secretary *Coventry*.] The Bill, without doubt, tends to a good end; but both for the payment and manner of securing the thing, very extraordinary. One time there was a Debate here upon the penning when a Tax should end—It would be a hard matter to make a small Question about the Tax, Treason—"Levying war against the King's commission for raising money;" but suppose the King should be there in person (but believes our King will not) will you establish another *Posse Comitatus* to resist the Sheriff? Read your Bill of Militia, and let the Long Robe debate it.

Mr *Sacheverell*.] All these objections, from the Bar, are out of doors, if considered; it is barely declaratory of the Law, not for raising, but for the time longer than granted, by force of arms—If you will leave it for an army to do it, you may throw out the Bill.

Sir *Robert Howard*.] Wherever High Treason is enacted, it ought to be extremely clear. One comes to the Sheriff, and tells him, "Give me your Power;" how shall the Sheriff be satisfied, whether he ought to go? It may be Patents for Briefs, which raise money.

Sir *William Coventry*.] Here are doubts proposed, and he may have some. The greatest thing, for recommendation to the Committee, is, that the Sheriff, the Justice, and other officers, are made by the King, as well as the Guards; none ever intended in the Militia, but in case of rebellion, and to be assistants to legal officers; and should they come to be countenanced about "resistance in raising money," hopes it will not be.

Sir *Thomas Lee*.] The power of the County Militia may suppress Rebellion; in this Bill the *Posse* is raised for no more than to commit a person to jail, in order to trial; so the Law remains as before; but the power of the County begins to be out of date: There was a time when the Act for the Customs was out of date, and yet they were levied; some Gentlemen can tell you when.

Mr Attorney *Montagu*.] The King's officers will be put upon difficulty; "money is levied" sometimes in caution, and, when the King appears to have no right,

it is returned—By this Act, the officers of the Exchequer will be so timorous to “levy the money” upon specious records, though by Grants fetched back again, that none will be found to meddle.

Sir *John Duncombe.*] Would not, for prevention of an evil, make it more severe and intricate than before. Would put the Bill into knowing mens hands of the Law, and have one of them in the Chair at the Committee.

Sir *Thomas Meres.*] “By force of arms,” the Bill says, and “illegally;” if an authority in Law to levy it, the man is safe—Would have every man’s help; how often has *Magna Charta* been confirmed! The Petition of Right never yet; but this Bill will do part of it, and would have a clause for confirmation of the whole.

Mr *Swynfin.*] For the main points of the Bill there is the concurrence of the whole House; therefore is against going to a Grand Committee; you all agree in the sense—Where tedious objections may be met with at a private Committee, the Lawyers of the House, being of the Committee, may adjust them.

Sir *Thomas Lee.*] No use of a Grand Committee of the whole House, unless you see no more Bills before you than this—Is weary of sitting here, if so perpetually you have a Committee of the whole House, which takes up all the morning. All that come may have voices, and the Privy Council being Members of the Committee, the King’s interest will be taken care of, and those of the Long Robe being there, all concerns will be taken care of.

[The Bill was ordered to be committed.]

At the Committee appointed for the said Bill. In the afternoon.

Mr *Sacheverell.*] The words, in this Bill, “Loan, Benevolence, Tax, Tallage,” are the very words of the Petition of Right.

Mr Attorney *Montagu.*] *Objected*; the King’s Briefs, by Letters Patent, are “levying money;” *was answered*, those are voluntary, and “no compulsion or force, in the levying them.”

Mr

Mr *Sawyer*.] This Bill is in the nature of the Petition of Right.

Sir *Robert Howard*.] In making an exception to any particulars, by Proviso, you confirm strongly all not excepted; therefore, not that of "Briefs" to be within the Bill, by exception. *Exceptio probat (confirmat) regulam*.

The Committee made some few Amendments, and ordered a Report to be made of the Bill.

Tuesday, February 10.

[The House taking into consideration the contested Election for *Caflerising*,] Mr *Pepys* [one of the Candidates] was accused by some Members, of being a Papist, and having an altar and crucifix in his closet.

Mr *Garroway*.] Moves, that those Gentlemen that asserted against *Pepys*, may charge, in their own words, what they have to say.

Colonel *Birch*.] You are now in a parliamentary way; *Pepys* can say nothing, he was accused but by hearsay, unless some Gentlemen will repeat the words, and then *Pepys* may answer.

Sir *William Coventry*.] The charge was not told you of the Gentlemens knowledge, but by hearsay; therefore appoint a short day, that proofs may be here, and *Pepys* may answer.

Sir *John Birkenhead*.] As the Apostle *Paul* said, "he was beaten publicly," so let *Pepys* be charged publicly.

The Speaker.] The thing that was said, was personal accusation against *Pepys*, and no way relative to his Election. The business is proper to be enquired into after the Election is over.

Sir *Richard Temple*.] By Order, always a reflection upon a Member must be cleared, before you proceed; for the thing will have an influence upon your judgments, which may be used the better, when all objections are cleared—Your Books are full of it—Adjourn it to a short day, and when *Pepys* stands *rectus in curia*, then judge of it, in God's name—If the Member be absent, and reflections pass upon him, it is your duty, Mr Speaker, to

stop the Debate till the Member be present, and the things set down in writing.

Sir William Coventry.] Such an aspersion upon a man, as to "be a Papist," and yet "to take the Communion," is such a thing as no man can defend his cause, let it light as it will, and would, if proved, give his vote to turn him out.

The Speaker *told Sir Robert Thomas, by Order of the House*] It is expected that you shall make that appear which you charged *Pepys* with.

Sir Robert Thomas.] Is ready to make good what he said the other day.

Sir Thomas Lee.] Would not have any words read, that were not collected at that time; it may be an ill precedent—*The Speaker proffering the matter said by Thomas.*

Sir Richard Temple.] The course of Parliament is, that you call upon the persons who made the information in your Member's absence, to do it now in his presence.

Sir Robert Thomas.] Appeals, that it is not fair for the Speaker to collect his words, without Order, and requires reparation—Was credibly informed, that *Pepys* had an altar, and crucifix, in his house, and should say, "our Religion came out of *Henry the eighth's* codpiece"—He made a ridicule of Lord *Brereton*, and the rest of the Commissioners of Accounts, at the Council-Table, and of your Act of Accounts.

The Speaker *replied.*] It is his duty, when information is given against a person, upon an adjourned Debate, to state it.

Sir Thomas Meres.] No man is charged, but words are written down and agreed. Now you have heard *Thomas*, proceed.

The Speaker.] If any thing falls from a Member, it is as *Meres* says; but upon an adjourned Debate, his duty is to acquaint the House with the matter.

Sir Robert Thomas] Is ready to produce persons, who informed him, that they did see "an altar, and a crucifix" upon it, in *Pepys's* House.

Sir

[Sir Trevor Williams.] He affronted Lord Brereton at the Council Table, who spoke for the Commissioners of Accounts.

Mr Garroway.] If your Member said any thing about “breaking his wife’s heart, because she would not turn Papist,” it is upon report; but the “subsigning Warrants for the delivery away of anchors and cables to the *French*,” is an abuse to the King, when the Commissioners of the Admiralty never were acquainted with it—If he be an accomptant for four or five hundred thousand pounds, and may have that put off, he may well turn your Commissioners to ridicule.

Sir John Ernly.] Hears it said, “that *Pepys* signed an order to deliver stores to the *French*.” Knows that such an order did come to us, subscribed by him, “that none should be delivered that were useful for the King’s service;” though, notwithstanding his letter, they were delivered.

Mr Waller.] If the Gentleman that accused *Pepys* will quit it, then go on with his Election—Would make a difference betwixt “Common Fame” and “Reproach;” or if any persons would stand up here, and say, “persons would make it good;”—but does not hear any man say so in this House, or can produce them that can—In all States, as accusations are allowed, reproaches are discountenanced; “a man said it, a bird sings it.” The *Florentine* history tells us, that that Commonwealth was ruined for want of accusations, where persons might justify themselves; (*audacter criminare, aliquid adberbit*) otherwise they are reproaches, the people reviling them as they went abroad. For reproaches, a screwed gun ends the matter. Formerly there were duels in *France* to the destruction of families; now they are destroyed: all differences are ended by the Marshals of *France*, who sit at the Marble Table at *Paris*, in the *Palais*.

Sir Robert Thomas.] Can prove the “crucifix and altar” in *Pepys*’s house. They who prove the rest are great persons, and out of his power, without your assistance—

Several

several persons in this House have been informed the same, as well as himself.

Sir *William Coventry*.] *Thomas* tells you, "he desires the assistance of the House to bring these persons to prove the accusation, being else out of his power. If a general accusation, "that once in *Pepys's* life-time he said, that of *Henry* the eighth's codpiece," it is hard for him to get evidence to clear himself—If *Pepys's* denial be not taken for a full answer, is then for *Pepys* to answer it.

Mr *Pepys*.] Does flatly deny "a crucifix in his house," from top to bottom, and would have persons produced that will prove it.

Mr Secretary *Coventry*.] There is great reason for the assistance of the House, to get evidence; Colonel *Langford* had the command of the *Tower*, who, not complying with the Long Parliament, was removed for Sir *John Byron*, who was accused of being a Papist; two women offering to take their oaths, they saw him upon his knees, praying to an image. Sir *John Byron* was at his devotion, and his perriwig upon a block, standing upon the table, not then so frequently worn as now; and this was all the ground of his accusation.

Sir *Thomas Littleton*.] Thinks the comparison very unequal, and it might have been spared, betwixt two silly women, and persons of great quality.

Mr Secretary *Coventry*.] Whoever is a Commoner, and a witness, is as good testimony as a great man.

Sir *Thomas Lee*.] Applying matters of Religion to "perriwigs," is a kind of ridicule on Religion.

Sir *William Coventry*.] Thanks God, we are not yet so well acquainted with "crucifixes," and so might be easily mistaken—It is time now to require *Thomas* to name those persons, that the House may assist him to reach their evidence.

Sir *Robert Thomas*.] Some Members have told you the same that he has done, and he would not be put upon naming his authors, till things come to proof.

The Speaker.] If witnesses must be sent for, by authority of the House, they must be named.

Sir

Sir Robert Howard.] If there be an impediment, that he cannot get his evidence, then he must have assistance from you.

Sir Thomas Lee.] When you know who they are, then take your way to bring them to evidence.

Sir Thomas Meres.] Would have them named by Order.

Ordered, by a Question, That all such Members as have given in the information against Mr Pepys, do name their authors.

Sir Robert Thomas.] He cannot avoid it now, because he has your commands for it. Lord Shaftesbury informed him, and he is informed Sir John Banks saw it also.

Mr James Herbert.] Lord Shaftesbury did say, "He saw an altar and crucifix in Mr Pepys's closet."

Sir William Coventry.] If no testimony be offered by Lord Shaftesbury, Banks you may send for, being a Commoner; but Lord Shaftesbury must have leave, and, in this case, you order a Committee to attend Lord Shaftesbury's attestation, as in the case of Lord Bristol.

Lord St John.] Had his information also from Lord Shaftesbury, who told it likewise to Sir Thomas Littleton, then present.

Sir Thomas Littleton.] Is not named in your Order, and not obliged to answer.

Sir William Coventry.] If Lord Shaftesbury will avow the thing, he believes Mr Pepys's Session not very long in this House.

Sir Thomas Littleton.] Being required by many to declare his knowledge, (forty men are more than one in evidence, being of the same honesty, and that no man can be compelled,) answered, Sir Robert Thomas was Ordered to do it, before he informed the House—Would be treated by that rule every Gentleman ought to be; such an Order would be very indecent, and would not be put upon it without your Order, as Sir Robert Thomas was—Would rather suffer any censure.

Mr James Herbert.] Littleton put him upon it, and would now slip his neck out of the collar.

Mr

Mr. *Garroway*.] Does commend, and would preserve the modesty of any Gentleman ; but what can be added by *Littleton* ? You have three witnesses in the case against *Pepys*, enough to take any man's life away—To put a man upon such a violence upon himself, where neither treason nor any great crime is concerned, is very hard, and would not have *Littleton* farther pressed.

Mr *Powle*.] It is an obligation upon a man, when the Commonwealth is concerned ; but as to private discourses that pass under an obligation, hopes you will not put this violence and force upon him, having sufficient light in the business already.

Sir *Thomas Meres*.] It is not desired because need of more evidence, but to be on an equal foot with other Gentlemen that have informed you ; but he, it may be, is “ under an obligation,” that other Gentlemen are not.

Sir *Robert Howard*.] *Littleton* said not what he would do, but what he would suffer, rather than inform the thing without contempt of the House.

A Committee was ordered to attend Lord *Shaftesbury*, to be informed whether his Lordship has ever seen an altar and a crucifix in Mr *Pepys*'s house.

Ordered, That Sir *John Banks*'s evidence be taken at the Bar, and that he have notice to appear.

Sir *William Coventry*.] Because Lord *Shaftesbury* is a Peer, his evidence, reported by a Committee, is the same with evidence at the Bar. Would have *Pepys* go along with the Committee to hear Lord *Shaftesbury*'s evidence, as we shall at the Bar.

Mr *Garroway*.] If the Question should be asked by the Committee, “ My Lord, what is a crucifix and an altar, whether consecrated or not ? ” differences may arise in the Committee, and so you will have no Report—As for Mr *Pepys*'s going, would not have spies upon the Committee who may misrepresent things—Would have this Order in writing.

Sir *William Coventry*.] Would not have it lie upon your Committee that they have not asked Questions, for you are to vindicate, as well as accuse, your Member ;
and

and if he goes not, you will not have all means proper by asking Questions, to give you light.

Wednesday, February 11.

[His Majesty in a Speech, which was reported by the Speaker, acquainted the two Houses, "That he had pursued their advice, and had made a speedy, honourable, and, he hoped, lasting Peace, which was already signed."*]

He assured the House of Commons, "That, before they had addressed him about disbanding the forces, he had given orders for doing of it, as soon as he should be sure of the Peace; and would reduce them to a less number than they were in 1663."

He added, "That he would give directions for the forces that came out of *Ireland* to march thither; but as the forces were lessened at land, desired their assistance to enable him to build more great ships."]

Sir Henry Ford.] This House has great obligation from the King's Speech, and moves, "that our humble Thanks may be sent to his Majesty."

[Which was agreed to by the House.]

A Message from the Lords, "desiring the concurrence of the House, in returning his Majesty humble Thanks for his gracious Speech, and concluding a Peace, according to their advice and desire."

It was answered, at a Conference, "That this House cannot concur with their Lordships, as part of the King's Speech relates to a particular Address of their own about "disbanding."

In a Grand Committee on Grievances.

Mr Sacheverell.] Finds in the Laws of the Union, that this late Act of the Militia of *Scotland* subverts all those Laws, and may be a terror to the subject here, and would have it removed.

Sir Thomas Lee.] Reads the Clause in the Act of the Union of the two kingdoms, 4 *James*,—"all men be ready in arms against *England*;" that Law is expressly repealed; and is not the making a new Law to the same effect, and stronger, a just cause of exception?

* This was a renewal of the Peace of *Breda*, with these additions, "That the *Dutch* should compliment the *English* Flag, whether in large fleets, or in single vessels; and pay about three hundred thousand pounds to the King, towards defraying the expences of his armaments."

Sir

Sir *Thomas Clarges*.] This is matter of as great weight as can come before you. This Law is of strange consequence; "two thousand horse, and twenty thousand foot, to march where the King's honour and interest is concerned"—Contrary to the course of the Militia of that kingdom; all betwixt sixty and sixteen were to be in arms "for defence of the kingdom"—They have in *Scotland* a great many followers, who, by tenure, are implicitly bound to go wherever their Lords command them; this new Law appoints "how to be raised, by what rates of estates, and to march either into *England*, *Scotland*, or *Ireland*."—Moves for a Committee to consider of the *Scotch* Laws in this case, and to make you a Report how they stand.

[A Committee was appointed accordingly.]

On some Amendments being proposed to the *Habeas Corpus* Bill, and which were farther debated *Feb. 17*.*

Mr *Cheney*.] Though the Statute of Suggestions be obsolete, yet it is still in force. 33 *Edward III.* chap. 18. "No man imprisoned, &c."

Mr *Sacheverell*.] A man cannot be arrested immediately by the King's warrant, because the subject can have no remedy against the King.

Mr Secretary *Coventry*.] Suppose war here, and a correspondence; and suppose the King receives a letter, "that he is betrayed by his Secretary," and he imprisons him; if he must have a deliverance, you can never have any intelligence.

Sir *Thomas Lee*.] If he be commanded to commit him, let him do it, without the King's hand, but not make use of it.

Sir *Thomas Clarges*.] The Long Robe told you, "many things were unlawful, yet justified by the necessity." Making a man's house a castle; the Lord Chief Justice to give an oath what ground and reason there is for it. A man may be kept up till evidence does come, if it be beyond sea.

[*Feb. 12*, omitted.]

* There is no mention of this Debate in the Journal, so it must probably have been in a Committee.

Fri-

Friday, February 13.

[A Bill for settling the Fees and Powers in the Patents of Judges, was read the second time.] The Judges to have their Grants *quam diu se bene gesserint*, and not *durante bene placito*.

Mr Secretary *Coventry*.] This Bill is of great consequence. We all acknowledge but one King in *England*, and we are going to make Judges greater than the King, whom he cannot punish—We have had Ship-money by the Judges opinion; let us take heed of their judgment—It is not for the King's service, nor for your honour.

Sir *Thomas Lee*.] Upon suggestions, Judges are easily sent for, and turned out, for doing right (being not near the King's person.) When the Judge is safe for doing right, he will do the better; no danger of not giving a right judgment—If all the Judges be corrupt, the Parliament will judge them.

Mr Attorney *North*.] This Law is of as great moment as can be; there was never less interposition in the Courts at *Westminster* than at this time; since they are *durante bene placito*, and no suspicion of influence upon them. Consider how fearful to go before a Judge—They will consider their honour; here is no appeal to the Lords in matter of fact, upon a verdict, that he has heard of—Suppose, in the Circuits, Judges should carry themselves with a high hand, and with distaste to the Gentlemen, no Address to the King can remedy it, as this Bill is; the King might else remove them.

Sir *John Monson*.] Believes that Judges may be bad. you are told of tryal by other Judges. Is sorry to hear, that, if one be bad, all the rest may be so. By the same reason, if Judges may be so, other things may be so.

Colonel *Birch*.] Is glad he hears of no more objections than from the Attorney; if more, you should have heard of them, sure—If the Judges judge their own misdemeanor, as the Bill is, and the Jury the fact, no Judge, against his own interest, will carry himself ill to the Gentlemen of the country—Though we have no reason

to

to misdoubt the King, yet we tremble to think what we may come under*. Will say no more.

Mr *Sawyer*.] *Quam diu se bene gesserint*, &c. "Whether the thing done or not done," is tried by the Jury, but "whether it amounts to a forfeiture," is tried before the Judges. A man that has arbitrary power may do ill, but this is a mere deliberative argument. Grants of their places have been practised both ways, and which is best, it is hard to determine; but a regard to justice, and the good of the whole kingdom, is the best way to attain your end. If you will go upon the best way of grant,—more certainty. "Overawing the Gentlemen in the country" is no argument, for it must be all according to Law, or else complainable above—It is a deliberative argument, and he would commit it.

Mr *Boscawen*.] You are not only in this to consider times present, but times past; we have known they have been arbitrary: Tho' Judges, yet they are but men, and it concerns the Parliament to remove them from temptations—If removed again when once a Judge, he loses his practice, and it puts him upon hardships—As for their fines upon Justices would have them with Appeals, and not so arbitrary as they are now.

Serjeant *Seys*.] The Bill imports "Judges to have their Patents *quam diu se bene gesserint*, that is, so long as they are honest men. Judgments are reverted from one bench to another; then, by Writ of Error, to the House of Lords—Thinks us not under any danger; the King brings his *scire facias*, and the Judge meets with his match, and those Judges will appoint Juries indifferent—Has known Judges removed to higher Courts, and lesser profits, and some removed quite. If a man denies to be a Judge, knows not how answerable. Some have been turned out of employment and lost all their practice—Would commit it.

Sir *John Duncombe*.] Both by the Long Robe and others, hears no remedy proposed; for recourse to Parlia-

* Colonel *Birk's* apprehensions were strongly verified by the flagrant perversion of justice in the succeeding reign.

ment the thing lies bleak and open ; greater numbers than twelve men may be corrupted, and I must stay till a Parliament comes ; in the interim, I complain to the King. In a *scire facias* the Judge must have the privilege of his own Court for tryal ; had the Jury the courage to do justice, yet you are not secure of the Judges ; never was an age happier than we ; no body complains of the Judges : Would you not have easier remedy than out of Parliament for this ? How by this are men invited to complaints by this Act ! You yourselves will be the first men that will suffer by this. Again, they must have the King's allowance for life, suppose they be insufficient ; that is *male se gerere* as well as the other—When you suffer nothing, you are well till you complain.

Sir Thomas Clarges.] Duncombe ends his discourse in praising the condition we are under ; but this is the time to take care against our coming under a bad Prince. For the first eight or nine years after the King came in, the Judges grants were *quam diu bene*, &c. but after the raising a standing army, their Patents ran *durante bene placito*. Still he apprehends the *Marian* days, but the demise of the King is the danger. Another remedy may be [to have] Gentlemen added to the commission of *Oyer and Terminer*. Judges have been sued in civil causes, and remedies for that ; the Law is plain in it—Would farther add to this Bill, “ that all offices might continue for three months after the demise of the King ”—Commitment of the Bill may obviate all the inconveniences objected.

Sir Thomas Meres.] It has been objected, “ that the Judges may not prove so discreet, for *magistratus indicat virum*, and not fit ”—Answers, special regard ought to be who are made Judges next—If the Judge loses his parts, or proves lunatic, such power in the Law that he may be suspended.

Sir John Trevor.] Would commit the Bill upon the Debate.

Sir Nicholas Pedley.] If, by the act of God, he have lunacy, or be superannuated, he may have a Writ of Ease,

and another Judge be made, and he enjoy his salary nevertheless; the King may grant a special commission of *Oyer and Terminer* to such of greatest esteem in the country.

Sir Robert Howard.] Will propose some things, which, if not taken care of, will be the greatest injustice; naturally judged, if the Judge be "at pleasure," *durante bene placito*, his oath will oblige him more than awe—Has seen Gentlemen in the country of great worth checked and chid, and threatened to be fined, and has been one of those at dinner, and the Judge dined not; and he came sooner to the Court than expected, and fined every man for non-attendance—The Sheriff was fined for no cause—Would you encourage this arbitrary peevishness when they are old? Would you encourage them in this, and punish us too? If the Grants be *durante bene placito*, there is not so much occasion of complaint as by *quam diu*, &c. It is taken for Law, that the Judge's tryal is proper in the Court where the misdemeanor was committed—Makes this use of it, that, as you will fortify justice, so fortify places of justice, who get nothing by the employment, and are fined at the pleasure of the Judge.

Lord Cornbury.] Howard instances Lord Chief Justice Keeling's case, which, he says, was *quam diu*, &c.

Lord St. John.] Better for a Justice to abide a reprimand, than to have the other inconveniences mentioned.

Mr Waller.] Fifty years ago this came in question; the House of Commons ever favoured *quam diu*, &c. At that time there was a Star-chamber, when the Judges were punished not among themselves, as *Middlesex*, &c. If Judges have favoured themselves for one thousand years, they ever did, and ever will—Upon an attain on a Jury there is villainous judgment, but never found by another Jury; therefore recommends to the Committee some other way of tryal than by themselves—Lord St. John said, it was no great matter their fining Justices; the only arbitrary power was fining one hundred pounds, it may be, for a wry look, and no remedy; this makes them Judges of *Israel* for life. Aristotle, in his Politics, defines

defines several Powers; true Sovereign Power is of "War and Peace, calling the Estates, making Magistrates," &c. Would know what Magistrates go out at the King's coming in; he hears the Lord Mayor does not—Would consider these things at a Committee.

Sir *John Hanmer*.] Would have a Clause against "buying their places."

Sir *Richard Temple*.] Finds an exception against the Bill, "that the Judges may arbitrarily fine, their grants being, &c." but the party may traverse the fine, if immoderate. This Court of Parliament is the proper Court to keep them, and all officers, in order—The Judges declared an act treason, as said, but the Duke of *Norfolk* so awed them they durst do no other; their places being *durante bene placito*, &c.—Would have these sorts of men have all the encouragements to do their duty faithfully.

Sir *Robert Carr*.] Has attended to hear complaints, and finds but two cases instanced.

Sir *Charles Harbord*.] Has had contests with the Judges formerly—Is against making their places for life.

Mr *Waller*.] Would have a coalition of that Bill of Sheriffs with this. Dying Judges have told him of corruption in under-officers; the Judges sell those offices, which is the ruin of the Common Law. They say, they cannot be angry with the Clerks of the Assizes, because they pay for their places—Moves to have these things recommended to the Committee—The Clerk of Assizes is a ministerial office, and dangerous to be sold.

Sir *Thomas Lee*.] As for "selling of places," believes some are afraid; this Bill does that, being already restrained in it, and they are therefore against it.

Sir *Richard Temple*.] Part of the instructions is, "that the Judges shall not fine above forty shillings, unless the offence be found by indictment."

Sir *Winston Churchill*.] Fears, that instead of one King, by this Bill, we shall be under thirteen; prays, that in consideration of abuses, the instructions may be for

special remedies—As the Bill runs, every little Attorney will be a tyrant, and a man may be tossed from Court to Court, till it comes into the Judges Court, and if officers and Judges be not very upright, the privilege of that Court may be abused—It is unequal that the Judge should have the privilege in his own Court, and a man have none—He has seen and felt the experience.

Colonel *Birch*.] What is offered is against the Bill, as much as can be, under Heaven—If not to *knock* it down, it puts as much weight upon it as will *pull* it down—Desires to have these great and good things in Bills by themselves, and this without clogs.

[The Bill was committed.]

Sir *William Coventry* reports from the Committee ordered to attend Lord *Shaftesbury* in Mr *Pepys's* accusation, “That, according to command, they attended Lord *Shaftesbury*, to know of his Lordship what he could say about an “altar and crucifix” in Mr *Pepys's* house; He was unwilling to go without his Colleagues with him. They went to the Earl’s house to desire to know the time of their attendance upon him at his own house, but my Lord would then dispatch them; which he did, without much premeditation in the thing. My Lord showed so much his inclination to satisfy them, that they could not decline it then; and because they had not an opportunity to set down in writing what my Lord said, they came into the house, and did it upon the table, and set it thus down in substance: “The Earl of *Shaftesbury* denies he ever saw “an altar” in Mr *Pepys's* house or lodgings. “As to the crucifix,” he says, he had some imperfect memory, before the Navy Office was burnt, of seeing somewhat, which he conceived to be a crucifix, but does not remember whether it was painted or carved, and, that [his memory is so very imperfect in it, that if he were] upon his oath, he could give no farther testimony.”

Mr *Garroway*.] Agrees to the Report, only “imperfect memory, and could give no farther testimony to a Jury.” The Committee had great labour to collect it. He said they were interlocutory things, and thought that no account would be called of them—“Whether carved or painted?” The posture of the room to be an inducement to recollect his memory, was not urged.

Lord

Lord *Obrien*.] Since they were with Lord *Shaftesbury*, he has met with a letter to a Member of the House, Sir *Thomas Meres*.

Sir *Thomas Meres*.] The next morning Lord *Shaftesbury*'s Gentleman came with a letter, "That his memory was lost in the matter, being long since, and was sorry he could not give an evidence so clear as might be expected."

The letter was to this effect: "He never designed to be a witness against any thing he heard, or saw, at Mr *Pepys*'s—He saw no altar." There is nothing in the letter to contradict the Report.

Mr Secretary *Coventry*.] Believes there are a great many more Catholics than think themselves so, if having a crucifix will make one.

The business was then no farther proceeded in, Sir *John Banks* being not heard, who was ordered to attend on *Monday* next.

Saturday, February 14.

Mr *Powle* presents a Petition complaining that Mr *George*'s chamber in the *Middle Temple* was seized on by one Mr. *Barrell*, a Benchler of the *Middle Temple*, in the time of Privilege.

Mr Secretary *Coventry*.] If a Member of Parliament come to be Chamberlain of *London*, must he dispose of all the money as he pleases, and nothing call him to account, because of Privilege of a Member? Or if a Fellow of a College, who, by the Statutes, must not marry, be a Member of Parliament, and marries, will you keep him in by Privilege?

Mr Attorney *Montagu*.] Mr *George* was called up to the Bench several years, in order to his reading, and he had appointment of a chamber in order to it, but he refusing to read, his chamber was disposed of by the Benchers, according to the custom of the House, to Mr *Barrell*, who now has seized it. It happens, that seizing it by that Order, he finds Mr *Glanville* there, where he leaves a servant to keep possession; upon which Mr *Glan-*

ville went out, and all things remain in the chamber locked up, as it was, Mr *George* having left the chamber.

Mr *Powle*.] *Montagu* mistakes the thing; for, in any man's case, it would be a forcible entry; for Mr *Glanville* must either forsake his chamber, or be a prisoner. It is said, they have bye-laws there, but they are not excused by them where there is breach of Privilege of Parliament—The intent of Privilege is for the Member's personal attendance here; and it is reasonable that he should be no more vexed by the bye-laws of Corporations, than by the contentions of his neighbours.

Sir *William Coventry*.] Privilege is grounded upon our attendance here, *cundo*, &c. Wishes they were restrained to that only, and we should have better attendance; for by *morando* it was not intended that we should stay in the country—By calling Mr *Glanville* in, will you be satisfied of matter of fact on one side? Will you have witnesses on Mr *George*'s part, and not on Mr *Barrell*'s? It is considerable whether a person can assign a chamber without leave of the Society. Offers it, because it seems too hasty to examine matter of fact, but would commit it.

Sir *Thomas Littleton*.] This is not finally to determine the matter, but only for resolving, whether to send for Mr *Barrell*, “by a summons,” or by the Serjeant, “in custody;” therefore would call in Mr *Glanville*.

Mr Attorney *North*.] Undertakes for Mr *Barrell*'s appearance, and would not have him sent for “in custody”—The Order upon Mr *George* and Mr *Glanville* is different—*Was interrupted, and Mr Glanville called in.*

Mr *Glanville*, at the Bar, said, “That he had been at the *Temple* three years in Mr *George*'s chamber, and with promise to deliver the keys to Mr *George*, and he had the keys from Mr *George*'s servant.”

Sir *Edward Dering*.] If Mr *Barrell* has broken your Privilege, it is an error of his understanding, not a contempt of your Privilege. Would have it referred to a Committee.

Colonel

Colonel *Birch*.] Was he not a Lawyer, who may be presumed to know your Privilege, but some inconsiderable fellow in the country, he would not send for him: But though he does not usually advise sending for “in custody,” yet does it now.

The Speaker.] They had four years time to execute this Order of the Bench, and yet take this time of Privilege to do it in.

Colonel *Birch*.] Mr *George* is alleged to be put out of his chamber, because he cannot read at the *Temple*—Supposes, that if all Parsons and Vicars should be put out of Livings, for not performing such considerations as belong to the place, you would have but few.

Sir *Richard Ford*.] Sir *Henry Peckham* told Mr *Glanville* “that he had an Order, but would not serve it, till Mr *George* and he had accommodated the business together.”

Sir *Thomas Lee*.] A Petty Constable would have been sent for at this rate; (as in Sir *Charles Sedley*’s case) We turned out of our lodgings, when we attend here! The Question is not, what right the Bench have, but whether Mr *George* was turned out of possession. You may be as well turned out of your lands.

Mr *Sawyer*.] The Order of these Societies does displace and dispossess without any action. If the under tenant will take in a tenant, *Glanville* is now tenant, in right, to the House, and not Mr *George*—Whether, at this time, your Member is the tenant, is the Question, or Serjeant *Peckham*’s tenant.

Sir *William Coventry*.] Would not send for *Barrell* “in custody;” when you have sent for a little Constable, it is well done; but it is to prevent his hiding himself, and not probable in a man of *Barrell*’s eminence, where there is no doubt of his coming to answer, no fear of his flying—We have [some] of this Society, that may be Judges hereafter, and would not let them have Precedents from us, of judging men before they are heard—Would not set up your own authority above the King’s Bench, and would have the Bill of *Habeas Corpus* read before you send for him “in custody.”

The Speaker.] If he has taken possession from your Member, there is another reason for sending for him "in custody," that you may keep him till he restore possession.

Mr Secretary *Coventry*.] Can a man have a title in the *Temple* longer than the Bench will have him? State it, that that tenure of the Bench is as good title in law as others are.

Sir *Nicholas Carew*.] *Coventry* tells you, "if the Benchers have a right, tis no breach of Privilege." To a Benchers they may dispose of a Chamber, but not to a Serjeant, as *Peckham* is.

Mr *Barrell* was ordered to be sent for in custody.

In a Grand Committee. On commitment by the King's warrant.

Mr Secretary *Coventry*.] Unless you say by what rule, if he does it not "by the King's warrant," he cannot do it "by his own"—Would have you define what commitment the Secretaries may make, in case a man would kill the King.

Sir *Thomas Lee*.] If the Secretaries may do it upon necessity, they will not want a necessity, and a pardon for it—Would have the "detainer" illegal, instead of the "commitment," and that is very modest upon the King.

Mr Attorney *North*.] *Nisi per mandatum domini regis*—Star Chamber—A *Habeas Corpus* by personal command, or council; if the King commands imprisonment, and assigns cause, a legal commitment; if the King assigns no cause, not warrantable to detain. 17 *Char. I.* declared a good commitment.

Sir *Thomas Lee*.] 17 *Char. I.* The Star-Chamber taken away, and special provision made for *Habeas Corpus*.

Mr Attorney *North*.] The King's command to a court is always matter of record—The King must signify his commands.

Mr *Sackeverell*.] The King, as a body politic, cannot commit, but by matter of Record.

Mr

Mr Attorney *North.*] If Cause be not assigned, tis a false Commitment; if wrongfully, there is a remedy, by the Statute of Suggestions, against the accuser.

Sir *Richard Temple.*] The Petition of Right does not take away the King's power of Commitment, but assigns special Cause—Would not take that away, which the King and his Progenitors have enjoyed. If no malice nor design appears, a man cannot have remedy of false suggestion, but Commitment by the Secretary is, till farther information may be had, in dark cases of treason—Leave out the word “illegal,” and declare it “a Grievance.”

Sir *Thomas Clarges.*] There are more Warrants under the King's hand, than from all the Princes before to Queen *Elizabeth's* time. People now will take the odium from themselves, and put the hardships upon the King, contrary to the true maxim. In this case, the Jailor can have no remedy, though the party aggrieved may have it against the Jailor. The King has referred execution of Laws to ministerial officers; he is Paramount to all Laws—Likes the expedient of “detainer.”

Sir *Richard Temple.*] So many have taken notice of this Commitment, that it now passes for Law—Would leave out the word “illegal;” tis a Grievance only, and fit to be made illegal.

Mr Secretary *Coventry.*] We can dispose no more of the King's Prerogative by our vote, than he of our Privilege; therefore go not those ways of proceedings; if you find it troublesome, do it by a Bill, but vote it not “illegal”—The King's Ministers will never know how to act, subject to be impeached by you.

Mr *Sacheverell.*] Would have a Committee, to see how the Common Law stands already, in that case of Commitment from the Council-table.

[A Committee was appointed accordingly.]

Monday, February 16.

[The Bill to regulate Elections was read a second time.]

Sir *William Coventry.*] Putting too much upon one

page,

peg, as *Birch* used to say, endangers breaking it; but he thinks this Bill short. Would have something added for preventing double returns, and will prepare something to present to the Committee to that purpose, with your leave.

Sir *John Banks* at the Bar. He had known Mr. *Pepys* several years; has visited him at his house, and at the Navy-Office, and never saw either altar or crucifix, and has no ground to think him a Catholic — and withdrew.

Mr *Pepys*, in his place.] At least hopes there is room for this Question, whether any doubts or dissatisfactions remain of his profession of Religion? Would only know, whether you will proceed to that point, or go on to the matter of Debate of the Election?

Sir *Thomas Lee*.] If the Gentleman desires to say any thing, let him say what he pleases.

Mr *Pepys*.] Has permitted himself to be discoursed of in Religion many days abroad, but for this, and many other matters, desires to give this short account of himself—He will reflect only twenty years backwards. For what his deportment was at *Cambridge*, refers himself to Mr *Sawyer*, his chamber-fellow. From thence he made but two steps in his life. Was invited to serve as Secretary to Lord *Sandwich*, and was there a good Protestant and a good Churchman, and the best sort of Protestant; he either went to Dr *Twiss*'s, Dr *Warmstry*'s, or Dr *Gunning*'s Church. By Lord *Sandwich*'s favour he was preferred to the Navy, where he has continued to this day, well known there. What can he say more? He appeals to all that know him there, and to the parish he lives in—Challenges any to prove him absent in fourteen years from Church—He is there twice a day—Does affirm, without ostentation, he has received the Communion seven or eight times, and not less than six times a year, in twenty years—At the King's coming in, there were some doubts, by little and little, and some insinuations of Catholics amongst us—He got power to give the Oaths of Allegiance and Supremacy; not one master of a ship in thirteen years came into

into employment, without [his] giving him those Oaths ; his voluntary and studious act ! Did observe that duty of getting Chaplains to the ships, not looked after. He got an Order for it, and that, where Captains for their own interests had no Chaplains, and got a groat a week for it out of the seamen's pay for themselves ; and now there are four where there was but one before—He has duly taken what you obliged by your Test, and has a certificate from the Petty-bag-office—He here challenges the whole world that he has not been once in his life at Mass ; and dares any man to prove, in his whole life, a Priest in his house, once at Mass, or a Popish book in his house—He can show you, without vanity, several Churches he has been a benefactor to, though but small things, as a window, pulpit-cloth, and reparations—Having said this, prays leave only to offer the names of some persons of hundreds, conversant with him in his house ; as the Minister of the parish, twelve Members that have known him, *Sir Robert Southwell*, *Sir John Ernly*, *Sir Richard Ford*, *Mr Wright*, *Sir William Coventry*, *Mr Montagu*, *Sir Henry Capel*, *Sir John Robinson*, all at his house ; submits to the reproach of any of these, if, from top to bottom, they ever saw any thing Popish—You shall have light enough ; as *Sir John Banks*, *Lord Ashley* your Member, all of my Lord's own familiarity and acquaintance ; will depend upon the ingenuity of any of these if they ever saw any thing in his house Popish—Can he believe that *Lord Shaftesbury* imagines him a Papist, when he countenanced his Election at *Castlerising* ? When he came to have the King's and *Lord Shaftesbury's* last commands, they wished him good success in his Election, and believes he would not wish success to one he in his heart thought a Papist ; but *Shaftesbury* wrote a letter under his hand, to promote *Offley's* Election to *Lord Townshend*,—Would not be bolder to say more of a man of his quality—When he saw these proceedings here, he went to *Lord Shaftesbury* and told him of his letter to *Sir Thomas Meres*, positive to “the altar,” and silent in the rest. Would not be thought a phlegmatic Protestant, therefore he

he stirred in this business and went to the Lords House, and sent to speak to Lord *Shaftesbury*, by Lord *Anglesea*, and then took the next, Lord *Carberry*. Soon after that comes out Lord *Anglesea*, who told him, that Lord *Shaftesbury* seemed surprized, and said, “ I guess at *Pepys*’s business, and will not speak with him ;” he expected not such a slight answer—Will never owe his staying in this House to dissembling. You might be doubtful that Lord *Shaftesbury* might do all this in favour to him, but he will show you what he wrote yesterday to *Shaftesbury*, viz. “ I supply what yesterday I was not permitted to do by word of mouth, now by letter—My business is about the “ altar,” a thing too signal, if seen, to be forgotten ! as to your doubtful suggestion about “ the crucifix,” ’tis a thin ; better to be remembered, and more signal than the altar, which is like a table”—For aught he knows, somebody may have an answer from Lord *Shaftesbury* ; if so, pray let it be produced—He has exposed himself to conversation as much as any man—Because he could not go much abroad, has made his home as pleasant to himself as he could, embellishing it with painting—His house has been seen from top to bottom, not one door locked, and glass doors ; and it is his humble request, if you think fit, to call the testimony of the Members he named, or some few of hundreds, as good as the walls of *London* compass ; the Minister of the parish where he lives, Mr *Mills*, as learned a man, of fame and function, as any man in *London*—He has a small table in his closet, with a Bible and Common-Prayer-book upon it, and *the whole Duty of Man*, a basin and an ewer, and his wife’s picture over it, done by *Lombard*—This is the whole thing talked of for an “ altar”—If there be any one thing more than these, except a cushion, he will lie under all the rest of the aspersions. *He withdrew.*

[Sir *Thomas Lee*.] It is now requisite that you ask Lord *Shaftesbury*, whether he told your Members, so or not.

[Sir *Nicholas Carew*.] Before you go to condemn your Member,

Member, or justify him, examine your other Member, *Littleton*.

Sir Robert Thomas.] He is ready to avow the words that Lord *Shaftesbury* told him, and would be enabled to justify them, and would go to the Lords Bar to justify them upon oath. ³ *Charles*, upon the averment of one single Member; it is in *Sir John Strangways's* case, in *Mr Rushworth's* Collections.

Lord St John.] Had the thing said six or seven times to him by Lord *Shaftesbury*, who said, "something like an altar, and stood altar-wise, and a crucifix"—Justifies it, and will make it good that he said so.

Mr James Herbert.] He is satisfied that his reputation is safe in your hands, it being yours—Lord *Shaftesbury* speaking of affairs here, said, "he doubts you admit Papists amongst you, for, dining at *Mr Pepys's*, he saw an altar, or a table altar-wise, and a crucifix upon it."

Sir Robert Thomas.] Would have you order *Littleton* to declare his knowledge.

Colonel Birch.] It is a thing never refused, and desires he may be ordered to tell his knowledge in this matter.

Sir Thomas Meres.] "A crucifix" is so called, though it be in painting.

Sir Thomas Clarges.] As *Mr Selden* said of Lord *Suffolk's* accusing him for razing a Record, "it will cause a ceasing of all intercourse betwixt the Lords and you in the matter, till cleared."

Sir Robert Howard.] Cannot imagine why *Littleton* should be ordered to speak his knowledge, for two reasons; from the disposition of the person being not inclined to discover, and its being contrary to his honour; unless for so great reason as the credit of your Members at stake—Members that have spoke, think themselves free, but another Member is not; you put him upon violation, and so an end to commerce betwixt persons—What Lord *St. John* has said, he has been justified by two Members in, and so have the rest. If you force this, it will be implied, that you want a fourth Member to make good

good what your other Members have done. If one Member had said it, he would have believed it. It is neither humanity to *Littleton*, nor credit to your other Members, and would not have him farther pressed.

Mr *Sacheverell*.] Would have the Member named that moved Lord *Shaftesbury* to write for *Offley's* Election.

Sir *Thomas Meres*.] You have foreign hangings in the house, and fryars praying in them, and crosses; it is no new thing for Gentlemen to have such. He loves pictures himself, and a man may have such without offence; but Lord *Shaftesbury* in no way denies what your Members say.

Mr *Sawyer*.] The other day was a bare voluntary information from your Members, but now you have ordered *Banks* to appear, and now your own Members desire other persons may be called for their justification, which you cannot deny them—It is said, "'tis a dubious thing, whether an altar, or crucifix; whether scandal or not scandal;" but having gone so far, you must do something for your Member's justification—Does take it that no Lord can take away your Privilege.

The Speaker.] It was never denied for a Member to speak his knowledge, not knowing what use you will make of it.

Mr *Waller*.] 'Tis now a Question, whether he shall absolutely answer. We ought to have as much care, or more, of good intelligence amongst ourselves, as with the Lords—For revealing, every man is judge of his own conscience—Should what is said at table be revealed, it would bar all human society—Persons have been sent to the *Tower* for not obeying your Order to declare their knowledge in a matter you require. To show you that this need not be, *Strangways's* precedent is spoken of; but two things were never so unlike as these. He was one of the managers. *Selden* was one that searched the Records much, and Lord *Suffolk* mistook the matter of "razing the Record," for razing the paper-copy of the Conference—A conference is not "like dining at a table"—Here was a Member charged with felony, for "razing a Re-

a Record;" it was satisfaction then to your Member, that the Lord denied it. Lord *Shaftesbury* has not denied the thing, and the case is different.

Mr *Bennet*.] Lord *Shaftesbury* did not deny saying any of the words, in all the discourse with the Committee.

Sir *Thomas Lee*.] What was said was in order to your examination of it. One part Lord *Shaftesbury* flatly denied, and another pretty nearly. Now you have other witnesses, and their testimony is but in order to the clearing your Members. You have the same power over *Littleton*, as over *Banks*, and would have him ordered to speak.

Colonel *Strangways*.] If your Members, sent to Lord *Shaftesbury*, had brought you a categorical answer, there would be no need of asking *Littleton* any farther Questions. It was no private discourse.

Mr *Swynfin*.] At the request of these Gentlemen, Sir *Thomas Littleton*, it is desired, may be ordered to declare his knowledge of this matter. To be ordered to communicate discourse at table, in common conversation, is hard. A man has but this refuge for the future, either prudence whom he converses with, or common fidelity; for very many words, ever so well intended, may be wrested to an ill sense—Would not have us spies upon, or treacherous to, one another.

The Speaker.] Asked *Littleton*, whether he would answer, and save the labour of putting a Question? He answered, No; he would not.

Ordered, By a Question, That Sir *Thomas Littleton*, or any other Member there present, do speak their knowledge of the matter concerning Mr *Pepys*.

Sir *Thomas Littleton*.] The last time, he was very backward to say any thing in this matter; since which several days have passed, and hopes not to be thought so negligent as to be to seek what to say now. What induces him now, rather than then, to say it, he will tell you. He thinks that Lord *St John* was there present, and believes that Sir *Robert Thomas* and Mr *Herbert* were not there—Protests he knows not that Mr *Herbert* knew any thing, or that he might name the Pope, or somebody else,

else, for his author, as well as him—Lord *Shaftesbury* told what he saw, “an altar and crucifix in Mr *Pepys*’s house,” which inclined him to think *Pepys* wavering—Never heard but that the surmize was by way of time-serving—*Shaftesbury* cannot say “an altar popish-like,” but “an oratory,” and believes that part of his answer may be thus explained—As Lord *Shaftesbury* came away, said he, “Mr *Pepys*, the next time we meet we will remember the Pope;” and this is all he can inform you.

Sir *Robert Thomas*.] Quotes Mr *Child* for farther evidence.

Mr *Child*.] Would know what Question he must answer to—Can say nothing of Lord *Shaftesbury*’s report of “the altar and crucifix.”

Sir *William Coventry*.] Mr *Pepys* ought to be present now new matter is spoken of, and should be called in—*He was called in*.

Mr *Child*.] Something occurs that he remembered not. A Member told him, “that another could inform you that Mr *Pepys* had an *Ave-Maria* book, and a velvet cushion upon an altar.”—Mr *Escott*.

Sir *John Monson*.] Would have the thing adjourned to *Thursday* sevensnight.

Sir *Thomas Lee*.] This collateral matter, when your Member is well chosen, is fit to be debated of; this Debate, whether Papist, or not Papist, is not the matter now—Would go on with the Election.

The Speaker.] At this rate, a man shall never be clear; one may come to town one week, another, another week.

Mr *Garroway*.] He unwillingly meddles in this business. If you come to the cause now, the last result of the Committee is, whether void Election, and, if not cleared now, he will be out of all capacity of having right done him in this House; therefore would assign a day to hear other evidence, but no time after that day.

Mr *Pepys*.] Whatever is done, whether he stay or go from you, submits, satisfied, to your judgment.

Sir *John Duncombe*.] Tis worse for *Pepys* to go with a-
persion

person without doors, where he can have no way of clearing himself, as here.

The farther Debate was adjourned to *Saturday* sevensnight.

Tuesday, February 17.

On several Amendments, &c. added to the Bill of *Habeas Corpus*.

Mr *Powle*.] All Judges are not of equal capacities. When *Richard III.* came to the government, to gratify the people he made a Law that any one Justice of the Peace might bail; but in 3 *Hen. VII.* by colour of it, notorious offenders were set at liberty; [it was] therefore repealed: And in the 1st of *Philip* and *Mary* farther Amendments were made in that Act; and yet he has known some great crimes bailed by virtue of that Act, by the over-compliance of some Justices. Here is a penalty, in this Bill, for persons not bailed, but none for the Judges that bail where they cannot: It has always been left to be public, in Court, but now 'tis done in private chambers; in the Court there is consideration and debate, and Counsel heard on all sides, and, more than that, in public Court, before all persons; and Lord *Coke* calls it "dangerous to alter the maxims of the Common Law." It has never been altered, but inconveniences did arise, greater than the mischiefs to be remedied. 17 *Charles I.* did not think fit to take it out of the Courts, but placed it in Court, never in private chambers—Another fault in the Bill is, any single Judge may send for a prisoner from the North, nay, two Judges may send for the same prisoner, and which writ must then be obeyed? 'Tis not his intent to destroy the Bill, but would have these objections answered, and considered how they may be mended.

Sir *Thomas Lee*.] If he takes the Bill right, "in special cases, as of felony and treason, no *Habeas Corpus* can be had." Matters capital are of the greatest dangers, and as for chamber-justice, he is not fond of it; but in such little things as the Bill mentions, the Judges are best to be entrusted rather than Justices of the Peace—If arbitrarily fined, they may come off from the Justices of the Peace, as

well as from the Judges. In vacation-time the Judges have sent *Habeas Corpus's* out of their chambers; these commitments, here about town, are to Messengers chambers, for punishment of the party for no great offence, and the Judges out of town.

Mr *Sawyer*.] This is a good Bill, notwithstanding the objections against it; it extends to no person attaint or convicted, nor felony, nor treason—As for Commitment—If committed by a Justice, or other legal process, for matters notailable; these are all taken out of the case; nothing remains, but commitment for crimes that have no name in law. When the Justice might bail, it was a liberty at large; you put this as safe as all your lives and liberties are; the Judges judge not the cause in a chamber, but may, by this Bill, grant a *Habeas Corpus* to bring the matter to speedy justice in the proper Court—Every Judge and Justice, in his proper sphere, does bail—*Objection*, “That Judges are not so liable to punishment.” They are equal to other Justices of the Peace; if indicted or informed against, they are equally liable to punishment: The Judge is not to do it, but at the prisoner’s petition, and at his charge—There is no danger of escape; all matters capital are bounded by the Bill.

Sir *Robert Howard*.] Has heard the Court condemn these chamber-practices of the Judges; people give any recognizances, and are any way discharged; he has heard this condemned by Lord Chief Justice *Hales*, when in the Exchequer—The nation may be more put in hazard by one single Judge. Whatever is done, would have the bail in Court.

Mr *Boscarwen*.] *Howard's* argument is beside the mark; there is not one word in the Bill for “Judges to discharge the recognizance;” this is but for taking recognizances—If you lay aside the limitation, you lay aside the Bill.

Colonel *Birch*.] When a thing is past help, so as to put the House to a stagger, then the Bill must be thrown out, past mending; the old trick at the latter end of a Session.

Mr

Mr Attorney *North.*] Would recommit the Bill ; a man is a prisoner at *York*, and is to be brought through several counties, and the prisoner artificially changes his name, and sues for false imprisonment.

[The Bill, with the Amendments, was ordered to be ingrossed.]

Wednesday, February 18.

A Bill for better attendance in Parliament was read the first time.

Colonel *Birch.*] The main reason against this Bill, is, that some have offices, and some have none, (*the Bill importing*, “no offices to be granted, during Parliament, to Members.”) The greater number have none; he has one, but not granted this Parliament; the reason is, it looks forward, to give satisfaction to those that sent us hither; as all men believe Elections not bought at this rate, (considering what they cost in the country, and at this Bar,) but that something is sure to be got by them—Can say nothing to such as say one thing, before they have got an office, and another after—That all things may be eased in the Bill, would have it read a second time; and then every Gentleman may have thought well of it, and it may be mended, for vindication of your honour.

[It was ordered to be read a second time.]

Mr *Barrell's* Petition was delivered by Mr *Sacheverell*, setting forth, “That he will deliver up the keys of Mr *George's* chamber, as this House shall appoint.” Mr *Barrell* came in, and avowed the Petition, on his knees. The Speaker, in the name of the House, told him, “That he, being a Lawyer, was presumed to know the Privileges of Parliament;” he then told him “his offence, and that, upon humbling himself, the House did discharge him, paying his fees.” He kneeled first upon one knee, and the Speaker caused him to kneel on both.

In a Grand Committee. On the present State of *Ireland*.

Sir *Henry Ford.*] Touching upon Irish Grievances, was bid to name them, and asked, Whether the prohibition of Irish Cattle was one? He said, It was, to which

F f 2

Mr

Mr *Swynfin* said,] He knows not what authority any Member has to speak against a Law in being, but he may ask your leave to bring in any Bill of repeal—Wonders it should be asked, when known never given.

Lord *Obrien*.] Wonders not, that people without doors would prevent this day's Debate. As far as he can, will inform you of persons that would destroy this Monarchy, to introduce another; for his part, he knows not where the legislative power of *Ireland* is; he knows it not. The last Session our Address was to the King for remove of Regulars, likewise for putting *Roman Catholics* out of Corporations, out of the Commission of Peace, and out of Offices civil and military; the King put out his Proclamation accordingly, but neither that, nor your Address, had any effect at all; but before he informs you farther particulars, would know what remedy you will prescribe.

Several moved to know, What the disease is, before you give the remedy?

Lord *Obrien*.] Finds, that, of all the *Romish* Regulars, and Dignitaries, but forty-seven, of four thousand, are gone out of *Ireland*; they ask you, what Law can send them out? those Laws against Catholics here, not reaching them there—The Address for disarming, after seven or eight months warning, (which was in *March* last) was sent *September* following into *Ireland*, and they sent away all their arms—Till he may know a remedy, desires to be excused from proceeding farther.

Sir *Thomas Clarges*.] Will tell you what he has heard. Is told from Gentlemen, that the chief Governor there takes all the care possible for removing these Regulars, but in vain; you are told the reason, because they have no force in *Ireland* to justify their power. In the time of Usurpation there were but a few of these left, but they were sent to the Isle of *Arran*; they found but sixty—The Law of *Ireland* is *præmunire* in case of *Romish* Priests; he guesses the reason—The Governor, by putting them cut, was not to hazard a rebellion.

Sir *Charles Wheeler*.] *Obrien* says, "he would not speak

ſpeak of great men and great things, without having ſome hopes of remedy—not to expoſe himſelf.”

Lord *Obrien*.] There is no Law againſt them without conviction; they have ſaid Maſs, and kept guards at the doors, and know who are Papiſts of the pariſh, and ſo no conviction can be.

Mr *Crooke*.] *Birkenhead* ſpoke, as if no Laws from hence were to bind *Ireland*. Till *Henry VIII*’s time our Kings were but Lords of *Ireland*. If *Ireland* be not named in any of our Laws, by *Poyning’s Law*, they bind not *Ireland*; but if they do mention *Ireland*, they are obligatory—Treaſons there—is within the kingdom of *Ireland*; a Writ of Error may reverſe judgment there. Lord *Coke* affirms it; therefore would not have that paſs for doctrine.

Mr *Waller*.] *Berwick*, not named, is not bound by our Acts; no more is *Ireland*, nor any places elſe, that come to the Crown by acceſſion; all dependents of the Crown, if named, are concerned—*Ireland*, that coſts us ſo much, God forbid we ſhould have nothing to do with it!

Lord *Obrien*.] If all given away, ſince the rebellion, was now in the King’s hand, it would be a fine revenue; the ſoldiery would know whether by thoſe Acts of 17 *Charles I.* they ſtand upon good grounds; the firſt or laſt Acts muſt ſtand good.

Mr *William Harbord*.] ’Tis not the fault of the chief Governor that your Addreſs was not executed; ’tis hard for them there to keep peace without force—Doubts not, if you will ſend ſome forces to encourage them, but that your expectation will be fully answered—Before the Addreſs, Colonel *Richard Talbot* had command; but when the Addreſs came, he was removed with the other Officers and Juſtices—Before this Lord Lieutenant came over, many Catholics were in commiſſion, but upon your Addreſs they were all put out of employment; and thoſe that were in took the Oath of Allegiance—His conduct has gone farther than your Addreſs; the very Under-Sheriffs were turned out, Biſhops, Archbiſhops, and Regulars, and no Priests whatſoever appeared—Whether the *March*

Addrefs came not till *September*, hopes the fault is not to be laid at the Lord Lieutenant's door—Forces were called away, ten or twelve companies, in the time of Ufurpation, and now not above one—Twelve hundred Catholics, in arms, in a garrison. Before the Proclamation came out, there was a contribution of the Catholics in *Ireland* to manage their business in the other parts of the world; now since that has ceased, their interest has ceased with it, and now you may venture to banish such a company of insignificant fellows as now they are; there is but one ship in *Ireland* to conduct small Merchants from *Capers*—Would address the King “for increase of shipping there.” If the chief Governor had more power he would have done better.

Sir *William Bucknell*.] The army is retrenched in *Ireland* to save money; he hopes enquiry will be made, what became of that money. Lord *Obrien*, now in this House, was disbanded, because he would not fight; he believes him a brave man, and would turn his back on no man—The President of *Munster**, how he came out he knows not; he was a great stop to Rebellion; that Lord was turned out too to save money, but has the money paid him—Has heard, that it was ordered “to turn Fanatics, and Non-conformists, out of cities,” and he turned out Papists also; if that was a crime, he knows not—A castle was to be taken out of the possession, out of a Lord's hand, and a person put in it, who was to have blown up the magazine; he has the grant of it in possession and reversion; an unusual Order! To discharge himself of that trust, in present possession, and the reversion to somebody—Hopes you will enquire into it—Great jealousies and fears, and great stirs there; some person drew Grievances, and would present them to the King, one time or another, but knows not whether he delivered, but was threatened to be turned into the jail, if he did—Upon the whole, the Papists are so great, that the Government is in danger; though the chief Governor did as much as he could, yet he was obstructed; six

* Earl of *Orrery*.

thousand

thousand *Roman Catholics* attended their Judge, when he proceeded upon his authority from the Pope; the *Irish* Papists live well there, and say "this is the reason; because the *French King* is their Guarantee to see this performed, and encouragement from him made them attempt it"—He has told you what he has heard, and knows not whom it may light upon—Moves for a Committee to consider of it.

Lord *Obrien*.] It was publicly declared at *Mas*, by those who had estates before the rebellion, "not to pay rents to soldiers or adventurers, for before *May-day* they were to have their estates again." They found a way, that such of their Clergy as would not obey their Superiors in the *Romish* Orders, had many accusations against them of treason and felony, and were put into prison, and proffered their liberty, if they would submit to their Archbishop, *Talbot*. Four thousand [Popish] Priests, and but five hundred [Protestant] Ministers in *Ireland*.

Mr Secretary *Coventry*.] That the Committee may not take too sudden an impression, one way or another, shall inform you, that he, by the King's command, wrote to the Lord Lieutenant; he had an answer to the receipt of the letter, but not to the matter, the thing being before he came to the government—As to "legal tryals," he hourly expects an account from the Lord Lieutenant.

Lord *Fitzbarding*.] To clear Lord *Berkeley*, first, "as to the putting in Papists Justices of the Peace;" he had a letter from *London*, for putting Papists into the Commission of Peace. Lord *Berkeley* made representation of it into *England*, of the ill consequences; to which he had no answer; but a letter came to the Archbishop of *Dublin*. They were put in, in Lord *Berkeley*'s time, but not by his order—As for "the powder," it was an unfit place, liable to fire, and he removed it, as Lord *Roberts* had done before him.

Sir *William Bucknall*.] Lord *Berkeley* was a great stay to the Protestant Religion in *Ireland*; what he has said, is no way in reflection on him.

Sir *Thomas Clarges.*] Is told of a considerable pass, and that the Governor has got the inheritance out of the King's hands; would know who advised and procured this; that the whole revenue of *Ireland* should be transferred and put into private hands, lays the foundation of destroying that government. It is the pass on the river *Shannon*. It would be worth your enquiry, how this of the Treasury comes thus to be altered. The Lord Treasurer is but a nominal officer, all goes through the Vice Treasurer; like the Groom Porter at Court, of more profit than the Gentleman Porter; more money goes through his hands—In Queen *Elizabeth's* time all payments, to save charges both military and civil, [were made] into the Vice Treasurer's hands; he that can dispose of money is of greatest power—Above four thousand men at arms in *Ireland*, and now must come out of foreign hands—Would enquire into whose hands this pass is put, and through whose the Treasury goes.

[To proceed on *Friday.*]

Thursday, February 19.

[On the Bill for Ease of Sheriffs.]

Mr Secretary *Coventry.*] Would have the office, if not lucrative, at least not damageable, and supplied by men of parts; that Gentlemen may have the honour of it, and not the damage.

Colonel *Strangways.*] The Under-sheriffs know the office, and are often in it; by that time the High-sheriff understands his office, he is out of it.

Sir *Thomas Lee.*] Is for being but once Sheriff. 9 *Edward II.* "The morrow after *All-souls*, they are to be pricked by the Chancellor and Judges appointment." However the practice is, the law is so.

Sir *Robert Carr.*] You have an example in *Hertfordshire*; Sir *John Read's* case; would have that considered.

Sir *Thomas Clarges.*] Would have *Rutlandshire* added to some of the neighbouring counties, there being so few Gentlemen, that they must often be Sheriffs.

Sir

Sir *Thomas Meres*.] The King need not fear it; he has but little to collect now by Sheriffs, and no danger.

Sir *Robert Howard*.] If the Proviso was of an injurious nature, for the Gentlemen of *Yorkshire*, they might have it by turns. Being Sheriffs but once sets up vying in expences. In Parliament time, five hundred Gentlemen are exempted from being Sheriffs—Would take this occasion to do the best work in the world, to make the office to be borne with credit and honour—By recommitting it, ways may be proposed, that Gentlemen be not burdened in the office.

Mr *Boscawen*.] Those, by this Proviso, will be brought to spend their estates in the Country; the fewness will bring them down, and when that is done, you may repeal the Act; more Gentlemen, that live here about the town, being brought into the country.

Mr *Garroway*.] You have been told of great inconveniences of Gentlemen sitting here, and hopes, by recommitting the Bill, that may be mended.

Mr *Cholmondeley* presents a Proviso, "That the Accounts of the County Palatine of *Chester* may pass as formerly." Which was accepted, [and the Bill was ordered to be engrossed.]

Friday, February 20.

In a Grand Committee. On the present State of *Ireland*.

Lord *O'Brien*.] Desires that Lord *Angier* may give you an account, how the commission was granted to take the money out of the Exchequer in *Ireland*, into private hands; the first cut given to Monarchy there.

Lord *Angier*.] Is surprized at what falls from Lord *O'Brien*; it may be thought malice in him to say any thing, because a sufferer there from persons—Desires it may be said by Lord *Orrery*.

Colonel *Birch*.] This, of the revenue, is but one part, though a very great one; he loves to talk of *Ireland*, when we can talk so cheap of it as now; neither to cost us blood nor treasure.

Divers Motions were made for Lord Orrery, "to speak his knowledge," but they were rejected, "till he please to speak."

Sir

Sir *Henry Ford*.] The Proverb says, "Losers may speak;" he hopes Lord *Angier* is no loser, because he will not speak.

Lord *Angier*.] Has the honour of being a Privy Counsellor of *Ireland*, and knows not how he can declare his knowledge, being the business of the revenue, transacted in the Council.

Sir *Thomas Clarges*.] Would only know, whether there be any such commission granted out, whereby the Treasury is put into private hands.

Sir *John Birkenhead*.] If a Privy Counsellor be asked, "who advised the King such things at the Council Table," he is obliged not to tell you, but generally "how affairs stand as to the revenue in *Ireland*," he may be asked.

Mr *Stanbope*.] The story of *Mordecai* and *Esther*—*If thou dost not thy duty, thou shalt perish too*—Would have both the Lords urged to speak their knowledge.

Sir *John Hotbam*.] Desires that the Speaker may take the Chair, if Gentlemen will not declare their knowledge, that we may go about other business, concerning the "*English Grievances*," if we proceed not now on the *Irish*.

Lord *Obrien*.] Thinks him not worthy of the office of Privy Counsellor, that will not declare his knowledge in what may prejudice his King and Country. He is of the Council, and knows a certain Lord *Ranelagh*; he and his partners have engrossed all the interest, with some little people he has picked up, engrossing the revenue of the Crown of *England*—You know what precedents of punishment—The case of Sir *George Ratcliffe* was a severe clog upon Lord *Strafford*—Judges these things, because there is something more in it than the pleasure of managing the revenue. Lord *Ranelagh* pretended to pay all the King's debts, and to put up forty thousand pounds in the King's purse; the King had reason to close with them.—He compassed it, by getting in people to manage the revenue, who owed the Crown much money—Fifty-three thousand pounds were cut off for twelve thousand pounds, which

which is cut off by pardon to that Lord and his partners—The Judges are so terrified and awed by this Lord, that they are forced to put in execution severe penalties for small offences, and vast sums of money are extorted from the subject—When the accounts run the old regular way, there was no money but what was payable and discharged by the Exchequer Record; they charge, from first to last, in the Court of Claims, and, if acquittances are lost, the money is paid over again; no Record in the Exchequer, their cattle seized for want of payment; these cattle driven to no pound near, but, it may be, forty miles off—For the army, he detains the money, and no payment of money when he might do it—These things ought to be remedied as Grievances, and what farther he remembers he shall tell you—If “he has the revenue in his hand, and has held correspondence with *France*,” hopes you will be warmer in the thing.

Sir *Charles Wheeler*.] A chart, or project, was brought the King, that he will run over an hundred thousand pounds in his revenue in few years, and another project that he might get as much. Can say nothing of the fitness, or unfitness of gathering the money, or to the process out of the Exchequer; when Lord *Obrien* will come to these particulars, shall be able to say something to it—As to Lord *Ranelagh*’s “correspondencies with foreign Ambassadors,” they are things of great suspicion and ill fame, though it may be, no great hurt.

Earl of *Orrery*.] Be pleased to move the House for a Committee to see the Contract for the revenue, and hear proofs. When the whole matter is heard regularly, and brought into the House, he will submit to justice.

Sir *Thomas Lee*.] This looks as if persons were striving who should have the revenue, whether he that has it now, or returned again to him that had it—He thought to have heard something of Popery—Was in hopes to have heard something of which way we might be instrumental to keep that kingdom from being over-run with Popery—All these things spoken of may be remedied by a Parliament in *Ireland*.

Lord

Lord *Cavendish*.] By Lord *Ranelagh*'s suggestion to the King, knows not whether to save charges, but the money is disposed of to the most notorious Papists in *Ireland*, upon pretence of disbanding the army—Lord *Angier*, if he pleases, can inform you farther.

Mr *Harwood*.] Would have that Lord's Patent brought you in, to view the whole matter.

Lord *Angier*.] Several payments have been, both according to the old and new establishment—Desires all may come before you at a Committee.

The Speaker, *out of the Chair*.] Agrees with those that move for a Committee—He expected the story would have gone much higher, but finds all has ended in an accusation against a noble Lord—If some persons * had gone through the farming of the Customs of *England*, you would never have heard of this of *Ireland*—Hopes this House shall never be made a property for private interests—Knows this Lord to be a worthy person, a loyal subject, a good Christian, and true to his friend—The scheme of the revenue of *Ireland* was brought to the King by those that managed it there, besides great sums in taxes and poll-money out of *England*—The army was twenty-two months in arrears of their pay, and it was assured the state of the revenue could not answer the charge. Lord *Ranelagh* showed so many things were mistaken, that the revenue would abundantly satisfy the charge; he undertook the payment of the arrears of the army, and money to the King over, without any other alteration, than changing Lord *Ranelagh* for Vice-President of *Munster*, and undertakes it—What became of the abatement of the charge *Obrien* tells you; it comes not to his partners, but the King; all is but a difference between the present Farmers, who pay it more narrowly than before—The fines and penalties are not his; they all come to the Crown—They are all in print; if an account be given of this farm by those that have been chief Governors, you will find nothing—But that you may not pass over these errors, commit it.

* Lord *St John*.

Lord Obrien.] A pardon is obtained to Lord Ranelagh to lie *leger* for him; if not faulty, why has he a pardon? Desires the Speaker to tell the Committee.

The Speaker.] He has taken out no Pardon; *which words Lord Obrien taking exceptions at, the Speaker said, He is unfortunate if any thing that he said reflected, but is confident of matter of fact—The account is true.*

Saturday, February 21.

A Bill concerning *Lindsey Level* was read the first time.

Mr Sawyer.] Averments are to and fro about the matter of this Bill, but the issue must be one way. This Bill has a retrospect and a prospect. No decree can settle the matter in Chancery; if property of the country about the draining be in the case, and whether consent or not a consent of property, few know; therefore would commit the Bill.

Sir Richard Temple.] To speak as a *Buckinghamshire* man, he would have all the Fens drowned; but you have once thought that this Bill deserved a hearing before. What cannot be done by argument, is often done by delay; if these things alleged can be made out, hopes your justice will not be destroyed by delay.

The Bill was ordered to be read a second time.

Mr Howe desired leave to go into the Country, to make his defence against a Presentment of a Riot alleged to be committed by him.

Sir Robert Howard.] The presentment at the sessions is "for spoiling the grass, &c. by hunting deer," Mr Howe keeping deer in his woods, having no park, chace, nor free warren there, in *Bradley* woods.

Mr Waller.] Informations of this nature may carry away half the House—Would refer it to the Committee of Privilege.

Sir Thomas Lee.] The presentment of a Constable is by virtue of an oath, and by the duty of his place he presents, as offences, riots, *contra pacem*, which is the case before

before you. Is not satisfied that your Member should be so prosecuted, and yet would not protect him in a breach of the peace—Would commit it.

Sir *Thomas Littleton*.] This is not matter of record. If no indictment, your Member may stay here and no proceedings will be.

Sir *Robert Carr*.] You are told that this presentment is from the "Chief Constable," not the "Petty Constable." It looks extraordinary that the "Head Constable" is active in the case; therefore would commit it.

[It was referred to the Committee of Privileges.]

On a Breach of Privilege against Sir *John Coryton's* servant.

Colonel *Birch*.] The course is, any man that complains must stand up, and aver, that the man arrested is his menial servant.

[Mr *Clarke* said, "*couchant & levant* in his house."]

Sir *Thomas Lee*.] Those paper protections are an umbrage, that the man may be a shop-keeper, or some other person; therefore would commit it, to know the certainty.

The Speaker.] The servant was taken in execution, and because he would not lie by it, he shows his protection.

The person, at whose suit it was, was sent for in custody.

The Bill of *Habeas Corpus* was read the third time.

Occasionally upon Sir *Edward Masters's* Motion, in that Bill to alter the penalty upon officers not worth the penalty.

The Speaker.] Exceptions cannot be taken to a Bill at the last reading, but such as may be mended at the table.

The Bill passed.

Sir *Nicholas Carew* brought in a Bill for a Test for Members of both Houses for Popery.

Mr *Sacheverell*.] Thinks it necessary, and would not defer reading it; to-morrow is a holiday, and you cannot do a better work.

Monday,

Monday, February 23.

The Lords Bill was read for trial of Peers; "The number to try them not under twenty-five, at least; of or above the age of twenty-one years; so there be twenty-five appear, no defect of summons."

Sir *Lancelot Lake*.] The Lords have great reason for this Bill; they may be tried by a pack of enemies; it has been so, and they have no challenge; the Lord Steward begins his office but that morning—Moves for a second reading, and to give some additions.

Mr Secretary *Coventry*.] Repeats the purport of the Bill: *Nolumus leges mutari, &c.* in this the Laws are changed; for inconvenience, in the present way of tryal, he knows none. In this King's reign there has been the least noble blood shed of any since the Conquest—If the Lords join in combination, they may ravish your daughters, and do you all the injury in the world, and no remedy for it—The Lords have no oath given them, because of known integrity—Shall they judge us upon honour, and condemn upon impeachments, without an oath, and they not trust one another? Commonly, in the Preamble of a Bill that alters any thing, the inconveniences are recited; there is no pretence in the old Law, as it is already, and he would throw the Bill out.

Colonel *Birch*.] The same reason given against this may be given against most Bills. Blessed be God! we have had no occasion for it yet, but we know not hereafter what may be: For taking from the Lords these fears, would quiet us of these fears—that it may not be so—Thinks it not possible to have those correspondences with the Lords you expect, without it, therefore would read the Bill again a second time.

Sir *Thomas Higgins*.] The former Bill that the Lords sent of this nature, not two Gentlemen spoke for retaining; knows not how the state of the kingdom is altered since—You, by this Bill, will alter the whole Law of *England*—Their powers were so great once, that the King and Commons could not reach them—If the greater
part

part of the Lords agree to conspire against the King, to ruin us, and no tryal but what they please, kindred, and friends and allies of their Jury, and no remedy, they are acquitted—The Law has provided already admirably well, and he would not read it again.

Sir Thomas Littleton.] Was one of those few that formerly would have retained the Lords Bill. He would not have this Bill pass as it is penned; as it is penned, twenty five are to have summons—If you give challenges to the Law, as it is already, that will remedy it; much more subject as it is now, than by this Bill—Retain it to alter it.

Sir Thomas Meres.] Would remind you of the occasion of not retaining their former Bill; they had thrown out several of our Bills; it is not to be retained as it is, but may be mended; he offers challenges—It would be of great good to have power to swear persons at our Bar (as the Lords have) in Elections and Privileges, and hopes to have it in this Bill.

Sir Robert Howard.] Shall not urge any thing that may be indecent; the Bill is of a strange nature—If so many Peers will unite together, to be injurious both to the King and the Commons, this is throwing an arbitrary power into the hands of a number of men. 'Tis possible that a Peer may be unjust; the Lords have said it in twelve, and he may say it in twenty-five—In the challenge of a Commoner, if we look a Jury man in the face, and like him not, it is a just challenge—If you commit this Bill, you can preserve nothing but the preamble, and let them be tried as we are—Though he is not against any Bill for their ease, nor against it, if tried with exceptions against their Jury as we are, yet it is not for us to enact things for the Lords honour.

Mr Sawyer.] The arguments are so strong, that no Commoner but would be persuaded by them; yet would not throw out the Bill at the first reading. Where there has been great debate, and arguing, 'tis a great disrespect, and to be done only, when nothing in it can be made good—If the Lords had thought that challenges would have
solved

solved it, they would surely have put it in. Usually more is asked than will be taken. Thinks that proper challenges would content. It is one thing to receive the Lords into the state of Commoners; and to let them have challenges upon one another, another thing.

Sir *Charles Wheeler*.] Circumstances of things and times alter things. The prospect of affairs is very melancholy, and, perhaps, some Lords are Papists, and others Protestants, and have a kindness for their Religion. This prospect makes him for a second reading it.

Sir *Thomas Lee*.] In some Bills, if the Lords cannot get new Privileges, they throw them out—The Bill “for security in time of the infection of the Plague” was lost, because the Lords would have it make a distinction of their lands, as well as of their persons—When the Law “of imprisonment for debt” was made, the Peers were exempted—The Commons act for the whole interest of the Nation, as well as the Peers—This trial is for themselves; the Commons are never the better for it—For in the whole House, the numbers returnable take out near relations and Bishops—And they are to be tried by their friends. You tie them together the better to effect what they have a mind to do, by hopes of impunity. Take care that no Popish Lords be in trials. But observe, that no Popish Lord, since the Reformation, has suffered by his Peers Jury—There is no danger of the Writ *De heretico comburendo**. They are returned by the Lord Steward, in the nature of summons by the Sheriff. The Lord Steward dares not make a corrupt return, because every Peer is concerned, and that family set out as destructive to Peers, and all the Peers will be upon him—No Peer can be tried but by a face he knows—Would throw this Bill out, because the Commons are never the better for it.

Sir *William Coventry*.] Has heard no man affirm an equality of trial; that goes to the bottom. If a Peer has but seven enemies, he may, as the Law now stands, be destroyed—We are providing new Laws for our own

* See p. 154.

security, and it is reasonable the Lords should. They are a considerable part of the Nation; and we may want our influence that we may hope for from them, of Religion and Property. The Bill is not so extravagant, as he has heard said; for the Peers had, heretofore, greater powers than now. There are few Papists convicted, and so they are capable of being Juries. The tryal now aimed at is not so different from the ancient constitution. Heretofore they were not so numerous; twenty four Lords went a great way, and came near the whole number. Then, if the major part of twelve cut off a Lord's head, he had hard fortune; but now it is no hard matter to find twenty four Lords. No danger of ruin to the Commons, only in point of stealing away, and from that their estates pretty well secure you. But for murder, in case of Appeal, he must be tryed by Commoners. That still remains. He moves, because he thinks it for the good of Religion in this conjuncture, (the King often present in the Lords House, and that they may make Debates in their House with as much freedom as we do here,) for a second reading.

Mr *Powle*.] Thinks that this Bill cannot be made better—Still for the inconvenience of the Commons—They have a more speedy way than greater men. Here they must come for Aids, and the Lords must comply—If this Bill be, the Lords may conspire to let the Crown fall into their hands—Such a way, as, in effect, exempts them from all capital punishment, if any Lord has a friend, that can prevail with a Lord to stay at home, when summoned, though he be of another opinion—It is setting up Aristocracy against Monarchy. If they carry this Bill, they will be Kings—If not impunity, for any ambitious man that is popular. Do you not, by making them masters of your lives, make them masters of your estates also? The Lords, to set up a distinct interest betwixt the King and them! Would rather be under the Government of a lawful Prince than the Lords.

Sir *Nicholas Carew*.] Apprehends no danger in this Bill, as things at this day stand. Thinks it not fit that
the

the Lords, who must speak against Popery, should be tryed by Popish Lords. The whole Jury may be Popish.

Colonel *Strangways*.] Arguments against Popery go a great way with him. Suppose a Lord arraigned for Treason, in the *King's Bench*, and they, by Writ of Error, remove it, and the Lords say, it is no Treason. How many troubles were in *England* when the Lords were great!—Would not do things for imaginary reasons—That's only the case.

Sir *William Hickman*.] Consider the security of the Nation—There never was a better time for correspondence with the Lords, and hopes, that by it we may get our witnesses sworn at our own Bar.

Sir *Robert Carr*.] If we were always sure of such noble Peers as we now have, he would be for this Bill. As to the argument, “if we give no countenance to this Bill, ours will not succeed in the Lords House;” thinks that will not prevail upon noble Peers. You are told of challenges; if so, they may be tryed by their relations, and so never be brought to justice.

*****] This Bill may be made a good Bill. It is reasonable they should have equal tryal as the Commons have—He speaks now in the behalf of the Commons, when prevalency of great men—Though we are happy now, yet knows not what may be hereafter. When tryed, may he not find seven of twelve that may acquit him? They have more security, as this Bill stands, than before. As for dependence on the Crown, what have you to fear, if the Lords, out of twelve, may have liberty to challenge? Appeals to the experience of former ages that this has been fatal to the Lords predecessors. Lord *Dacre*, upon his tryal*, desired to wave his Privilege of Peerage, and to be tryed by Commoners; but could not have it. Hopes we shall never see the Lords uppermost, for then the Law you make now will be changed. If the King's Ministers,

* 33 Hen. VIII. For being accessory to the murder of a Keeper in Sir *Nicholas Pelham's* park.

and the Lord Steward, may approve of the Jury, and the party tryed have liberty to except, it may do well.

Lord *Obrien.*] For the sake of some sons of Peers, that sit here, who may come to tryal, he would have the Bill read again.

Sir *Edward Smith, of Ireland.*] Put the case, that some Gentleman brings in a Bill for tryal of the Commons, so many of his kindred to be of the Jury—This is much worse; all are kindred and relations in the Lords House, and so there is no crime that they will punish—It introduces Aristocracy.

Mr *Boscawen.*] 'Tis as much injustice to be tryed by friends as enemies; but as to putting the Question for passing the Bill as it now is, he is against it. Were the Lords an entire body, another thing; they marry with Commons, and are interested with them. Upon Appeals they are tryed by the Commons. The numbers are not so hard to be gotten as formerly; they live not so remote. Would read it a second time.

Mr Attorney *North.*] Likes not the subject-matter of the Bill, and when that is not to be approved of, hopes you will lay it aside. In civil tryals they have great Privileges. Instead of the Sheriff, the High Steward is “to summon twenty five of not suspected integrity,” and so no challenge can be. To pretend to be weary of the usual way of tryal, is a mere pretence. Any rape, or capital offence, may be committed on a Commoner, by a Peer, and 'tis hard to have equal Justice. Believes, that, if any Clause should be sent to the Lords about challenges, it would be thought a reflection upon the whole House of Lords. The more dangerous for the numerosness of Peers; the Lord that's to be tryed will send all the Kingdom over, to solicit relations. The Lord Steward cannot so well do it. Then how bold will they make with the Commons, and tend to setting up an Aristocracy! Appeals we have in notion, but not three have been brought in an hundred years*. If a proper Law towards it, would not have been against it, but would lay this aside.

* In the County of *Derby* two Appeals were made in fifteen years.

Mr *Swynfin*.] The Question is not upon the particulars of the Bill, but the design and scope of it; at the second reading then proper to be debated. The Question now is only, whether the Lords, having sent you a Bill to alter the scope of their tryals, you should take it, or not, into consideration; whether the Law is so exact now, as that a larger way of tryal be not better, or worth taking into your consideration. Either favour or partiality is stronger, as now it is, in a few—Is for a second reading.

Sir *John Duncombe*.] It is not reasonable to trust the Lords with such a power. We fear that a Lord should suffer for conspiracy; the more Lords the more conspiracy. You are putting the Lords, by this Bill, into a higher condition to do it by Law. What is this for? Only temporary fears, and so all Laws changed—Consider whether the Lords will not do as the Senate of *Venice*. If they knock one of us on the head, let us stick to one another—Is against a second reading.

Sir *Edward Dering*.] This concerns all the Commons. You take away the birthright of every Commoner—The latter Clause of the Bill takes away all remedy of Appeal.

Sir *Thomas Clarges*.] If their ancient way of tryal be grievous to them, this Bill is no more than in pursuance of the King's Speech, about their properties. The ancient way of tryals was in Parliament. Till *Henry IV's* time, no knowledge of an High Steward. It is so in *Ireland*, in *placito Parlamento*, and no otherwise. In *Henry VII's* time, *Poyning's Law*. There is reason to alter this Law—The axe has not been wet with noble blood, but since the King comes to the Lords House, and perhaps, the Lords successors may be under a violent Prince, and if the Lords speak freely, twelve men may be packed and dispatch them. In *Henry VIIIth's* time, more Nobility lost their lives by tryal, than from that time to the Conquest, but none were put to death but by Law. The Earl of *Surry*, the Countess of *Salisbury*, and *Anne Bullen*, were hard cases. Upon the whole, would have a second reading—In the main, it is a good Bill.

Resolved, That the Bill be read a second time, [179 to 106.]
N. B.

N. B. In this Session of Parliament there was a Debate in the House of Lords concerning taking away the Writ *De hæretico comburendo*; which is a Writ in the Register, before 2 Henry V, in which time the Statute against *Lollards* was made, and put in execution against them. A Writ *De hæretico comburendo* was, before that time, at Common Law. The Bishop and Ecclesiastical Power were Judges of Heresy, who, upon condemnation of the party, delivered him up to the Secular Power; and the Writ *De hæretico comburendo* was thereupon issued out. That Writ being still in force at Common Law, and the same power in the Clergy, notwithstanding the Statute of Queen *Elizabeth* of the thirty-nine Articles, and the Statute of Heresy, upon the misfortune of Catholic Governors and Clergy, as in the *Marian* days, that Writ is still in force, and may be put in execution*.

Tuesday, February 24.

The Black Rod, about ten of the clock in the morning, came to command the attendance of the House upon the King, in the House of Lords; where his Majesty, after a short Speech, prorogued the Parliament to *November 10*, without passing any Bill, this being the third Prorogation without passing any Bill. [And on

Tuesday, November 10, 1674.

The House being met, it was farther prorogued by his Majesty to *April 13, 1675.*]

* An Act for taking away this Writ was passed four years afterwards, 29 *Charles II.*

END of VOL. II.

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